EQCMeeting1of2DOC19900525

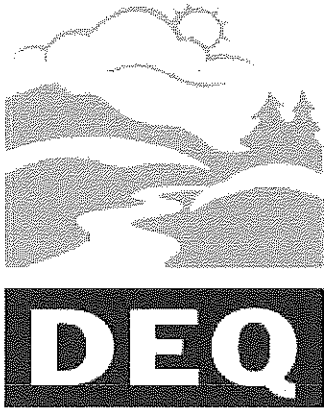
Part 1 of 2

OREGON

ENVIRONMENTAL QUALITY

COMMISSION MEETING

MATERIALS 05/25/1990



State of Oregon
Department of Environmental Quality

Blank Sheet Have Been Removed, which is the reason for any discrepancies in the page numbers

Nikkila

State of Oregon

ENVIRONMENTAL QUALITY COMMISSION

A G E N D A

WORK SESSION -- May 24, 1990

Newport City Council Chambers
810 S. W. Alder
City Hall, Newport, Oregon
3:00 p.m.

3:00 p.m. - 1. Strategic Plan: Discussion of Final Recommendations for Plan

4:00 p.m. - 2. Non-Criteria (Toxic) Air Pollutant Rules: Background Discussion

4:45 p.m. - 3. 1991-93 Budget Request: Discussion — decision pkg to go to EQC in advance for June worksession

NOTE: The purpose of the work session is to provide an opportunity for informal discussion of the above items. The Commission will not be making decisions at the work session.

NOTE: The Commission will visit Forest Practice Operations and the Agate Beach Landfill on the way to Newport on May 24, 1990. The Commision and staff will have dinner at about 6:00 p.m. at the Sylvia Beach Hotel in Newport, and will discuss recent travels following dinner.

REGULAR MEETING -- May 25, 1990

Newport City Council Chambers
810 S. W. Alder
City Hall, Newport, Oregon
8:30 a.m.

A. Consent Items

NOTE: These routine items that may be acted upon as a group without public discussion. If any item is of special interest to the Commission or sufficient need for public comment is indicated, the Chairman may hold any item over for discussion. When a rulemaking hearing is authorized, a public hearing will be scheduled and held to receive public comments. Following the hearing, the item will be returned to the Commission for consideration and final adoption of rules. When rules are proposed for final adoption as Consent Items, a hearing has been held, no significant issues were raised, and no changes are proposed to the original draft that was authorized for hearing.

1. Minutes of the April 17, 1990 Meeting

2. Approval of Tax Credit Applications

3. Authorization of Rulemaking Hearings

a. Stage II Vapor Recovery for Air Quality Control in the Portland Metropolitan Area

b. Toxics Use Reduction and Hazardous Waste Reduction Rules (HB 3515)

4. Adoption of Rules (No changes are proposed as a result of the rulemaking hearing.)

a. Groundwater: Proposed Adoption of Interim Numerical Standards for Maximum Measurable Levels of Contaminants

b. Water Quality Permit Fees: Proposed Industrial Source Fee Increase to Help Fund Groundwater Program

c. Water Quality Rules: Adoption of Rule Changes Affecting Permits and Approvals for Industrial and Agricultural Sources

d. Sewerage Works Construction Grants: Proposed Adoption of Rule Modifications

Public Forum

This is an opportunity for citizens to speak to the Commission on environmental issues and concerns not a part of the agenda for this meeting. Individual presentations will be limited to 5 minutes. The Commission may discontinue this forum after a reasonable time if an exceptionally large number of speakers wish to appear.

Action Items

B. State/EPA Agreement: EQC Review of Department Recommendations

C. Air Quality State Implementation Plan (SIP): Adoption of Amendments to LRAPA Rules Title 15 "Enforcement Procedures and Civil Penalties," as a Revision to the Oregon SIP

D. Revolving Loan Fund: Proposed Adoption of Temporary Rules and Authorization for Hearing on Permanent Rules to Address Problems Encountered in Initial Program Implementation and 1989 Legislative Amendments

E. Gold Mining (Continued Discussion from Last Meeting)
- Possible Policy Guidance on Permit Issuance and Permit Conditions

Rule Adoptions

NOTE: Hearings have already been held on these Rule Adoption items; therefore any testimony received will be limited to comments on changes proposed by the Department in response to hearing testimony. The Commission also may choose to question interested parties present at the meeting.

F. Emission Exceedances: New Rule to Regulate Excess Emissions Due to Start-up, Shut-down, or Malfunction Situations

Greg - Job well done
Reproduce greg's slides in hard copy. - for FH, TRB, Reg. Mgrs

G. Infectious Waste: Proposed Adoption of Rules to Implement 1989 Legislation Limiting Disposal and Requiring Incineration or Other Sterilization Before Disposal

H. UST Rules: Proposed Adoption of Federal UST Technical Standards and Financial Responsibility Rules; and Local Program Delegation

I. Permit Public Notice Procedures: Proposed Adoption of Rule Amendments

J. Water Quality Permit Fees: Proposed Municipal Source Fee Increase to Help Fund Groundwater Program, Pretreatment Program and Sludge Program

Informational Items

K. Commission Member Reports:
- Governor's Watershed Enhancement Board (Sage)

L. Legislative Update (Oral Status Report)

M. Water Quality Program Updates:
- Coquille Project: Informational Report
- TBT: Background Discussion
- 305(b) Report: Informational Briefing

N. Pollution Control Bonds: Background on Agreement Provisions and Future Bond Sale for Mid-Multnomah County Sewers

Commission Deliberations

NOTE: This is an opportunity for Commission members to discuss information that has previously been provided to them. No testimony will be taken. However, the Commission may ask staff or members of the audience to respond to questions.

O. Options for Public Input (Discussion of Suggestions from Last Meeting)

Because of the uncertain length of time needed, the Commission may deal with any item at any time in the meeting except those set for a specific time. Anyone wishing to be heard on any item not having a set time should arrive at 8:30 a.m. to avoid missing any item of interest.

The next Commission meeting will be Friday, June 29, 1990. There will be a short work session prior to this meeting on the afternoon of Thursday, June 28, 1990.

Copies of the staff reports on the agenda items are available by contacting the Director's Office of the Department of Environmental Quality, 811 S. W. Sixth Avenue, Portland, Oregon 97204, telephone 229-5395, or toll-free 1-800-452-4011. Please specify the agenda item letter when requesting.

State of Oregon
Department of Environmental Quality

Memorandum

Date: May 16, 1990

To: Environmental Quality Commission

From: Fred Hansen, Director

Subject: **Agenda Item 1**; May 24, 1990 EQC Work Session

Strategic Plan: Discussion of Final Recommendations for Plan

The Department has completed a review and summary of the comments received on the Strategic Plan in response to the public notice.

Attached are the following documents:

- A three column display showing the Draft Strategic Plan Circulated for Public Review, Comments Received During Public Review (paraphrased), and Department Discussion and Recommendations on the comments. (Attachment 1)

  This document is intended to facilitate review and discussion of the comments by displaying comments and discussion directly adjacent to the referenced wording in the draft Strategic Plan. Public comments are referenced by a number in parenthesis which relates to the index of comments received.

- Copies of the actual comment letter received with an index as a cover sheet. (Attachment 2)

Comments received were varied: specific changes in wording of elements of the plan were recommended; opinions of support or disagreement for plan elements were expressed; and some comments did not clearly relate to the plan. Hopefully we succeeded in capturing the intent of the comments in the paraphrasing included in the three column attachment.

Recommendation

It is recommended that the Commission review the comments received, review and discuss the Department Discussion and Recommendations included on the three column attachment, and make specific decisions regarding modifications to be included in the final Strategic Plan.

FH:l
Attachments (2)

Draft Strategic Plan Circulated for Public Review	Comments Received During Public Review (paraphrased)	Department Discussion and Recommendation

3/6/90 Draft

Environmental Quality Commission
Department of Environmental Quality

Strategic Plan

INTRODUCTION

This document presents the proposed Strategic Plan for the Environmental Quality Commission and Department of Environmental Quality. As used in this document, the term "Agency" is an umbrella term used to represent both the Commission and the Department.

The strategic plan establishes a framework for making critical decisions wisely. The Strategic Plan is not concerned with "nuts and bolts" details of the agency's day-to-day operations. The plan focuses on significant issues where key results are essential. This strategic plan focuses on a short and medium range time span. It sets forth the Mission, Strategic Goals, and Priority Issues of the Agency. This strategic plan will be a primary yardstick for measuring and evaluating Legislative Concepts and Agency Budget Proposals for the 1991-93 Biennium.

ASSUMPTIONS

The following assumptions about the future of Oregon and the nature of future environmental issues, and the strategic planning process will have a bearing on the strategic goals and directions for the Agency:

- The population of Oregon will continue to grow at increasing rates (unless the state takes deliberate effort to discourage or

- Population will continue to grow, but it is unlikely that the rate will continue to increase. Growth will likely occur no matter

Draft Strategic Plan Circulated for Public Review	Comments Received During Public Review (paraphrased)	Department Discussion and Recommendation
prevent such growth).	what. The statement in parenthesis should be removed. Suggested wording: "The population of Oregon will continue to increase, probably at a relatively rapid rate for the foreseeable future." (9)	The Department agrees with the suggested deletion and rewording.
• Industrial and economic development will continue to occur at increasing rates (and be encouraged) to provide jobs for Oregon's citizens.	• The use of 'increasing rates' should be changed. Suggested wording: "Industrial and economic development will continue to increase, and shall be encouraged to provide jobs for Oregon's citizens, within a framework of sound environmental policy." (9)	The Department agrees with the suggested rewording.
• A change in the nature and mix of industries in Oregon will occur to provide continued employment for existing residents in response to the predictable decline in timber harvest.		
• A net migration of citizens to the state and particularly to the urban and suburban centers throughout the state will continue, placing a growing strain on infrastructure and quality of life in the urban and suburban centers.		
• The quality of the environment in Oregon is the State's most valuable asset. It is cherished by existing residents, and a highly valued feature for attracting productive future citizens to the state.	• How can one assume that only productive citizens will be attracted to Oregon? (5)	The Department believes the statement is appropriate and would prefer to leave it as written. However, it could also be modified by deleting the words "productive future" from the statement.
• The Environment's assimilative capacity is finite.		
• Fiscal constraints will continue to limit available funding for new or expanded environmental quality control efforts.	• A contradiction with the first assumption of increasing population is implied. Priority should be given to programs	The Department does not believe that these two assumptions are conflicting. An increase in population is not expected to remove or

Draft Strategic Plan Circulated for Public Review	Comments Received During Public Review (paraphrased)	Department Discussion and Recommendation
—	which would attract new federal funding. Beginning a program with federal funding could be a strategic key to the development of future environmental protection programs. It should be a priority to search for funding. (11)	reduce the fiscal constraints currently experienced. Further, the Department does not agree that priority should automatically be given to programs that attract federal funding. Such programs may not be a high priority in Oregon, but they would tend to draw funding away from higher priority issues in order to meet matching fund requirements.
	• Limited resources may limit expansion of staff, but does not necessarily limit expansion of environmental control efforts. Suggested wording: "Fiscal constraints will continue to limit available funding for additional staff. New or expanded programs will need to rely upon improvement in methods, management, and/or changes in program priorities." (9)	The Department agrees with the suggested rewording.
	• This assumption that funding will be limited conflicts with Goal 7 regarding creativity. (2)	The Department believes that limited funding can be a driving force for creativity.
• Environmental regulatory programs will progressively focus more and more upon the individual (both as polluters and as consumers of products and services which unduly contribute to our pollution problems) rather than solely upon cities and industries.	• Control the source who made the products, not the user. (8)	Oregon is not in a position to control the "source" of a great many products that are environmentally undesirable. It is appropriate and necessary to focus more on the individual as the assumption indicates.
	• Focusing on the individual must be done "as well as" focusing on industry, not "instead". (14)	The Department agrees with the intent of this comment; however, it is noted that the wording of the statement does not use the word "instead". The Department believes the present wording captures the intent. The use of the words "rather than solely" suggests that continued efforts will be directed to cities and industries.
	• This assumption is not clear. Both the Consumer and the producer of products need to get the message that a particular product may be causing environmental degradation. (9)	The Department believes the emphasis of the current assumption is still appropriate and does not propose any change. The most effective message to the producers of products may come from consumers who choose to forgo their product.

Draft Strategic Plan Circulated for Public Review	Comments Received During Public Review (paraphrased)	Department Discussion and Recommendation
• The demand by the public for more information and more involvement in the deliberations on environmental quality will continue to grow.		
• Federal requirements will continue to have a heavy bearing on the activities of the Agency.		
• Technology and information will continue to improve and enhance the capability to monitor and control the quality of the environment.	• Improved technology and information may also provide increased opportunities for pollution. (5) • Technology will improve our ability to "monitor" the environment; but it is questionable if technology has ever given us "control". Technology should be used towards the goal of restoring the environment, not controlling it. (14)	Development and use of waste treatment and control technology has allowed the accommodation of increased population while the total amount of pollutants discharged to the environment has decreased. Development and use of technology is an important tool in protecting the environment. Development and use of new technology can also create new environmental concerns. The Department suggests that the wording be modified to say "..protect the quality of the environment." rather than "..control.."
• The Environmental Quality Commission, as a citizen governing body, provides unique opportunities to help achieve goals the Department alone cannot achieve.		
• The 1989 Legislatively Approved Budget for the Agency, new legislation to be implemented, and the agreements reflected in the State/EPA agreement (grant agreements) have already established major priorities for the Department for the period from July 1, 1989 through June 30, 1991. There is some ability to adjust priorities and reallocate resources, but significant shifts on an immediate basis will be difficult if not impossible.		
	• Consider grouping assumptions related to increased population	The Department agrees with this suggestion and proposes to

Draft Strategic Plan Circulated for Public Review	Comments Received During Public Review (paraphrased)	Department Discussion and Recommendation
	and development, finite limits on the assimilative ability, and the high value the citizens of the state place on our environmental quality. This would aid in conveying the message that business as usual is not an option. (10)	rearrange the order of the assumptions in the final draft.
	• Recommend that a new assumption be added expressing DEQ's commitment to ongoing involvement in the state's land use program as one of the key steps in protecting the state's environmental quality in the face of growth. (10)	This suggestion may be appropriate as a modification to a Goal or a Priority, but does not seem appropriate as an Assumption.
MISSION The Mission statement is a short, concise statement which indicates the purpose or reason for existence of the Agency in global terms. **The Mission of the Agency is to be an active force to restore, enhance, and maintain the quality of Oregon's air, water and land.**	• More emphasis is needed on restoration. Resources need to be diverted from cases of excessive monitoring to remediation/restoration. (5)	No change in wording is proposed.
STRATEGIC GOALS Strategic Goals identify the direction the Agency seeks to go or the general results the Agency desires to accomplish over the course of the next few years. The Strategic Goals are not specific as to how the desired results are to be accomplished. The Goal statements provide a "sense of direction" which guide the development of major projects or activities as well as the numerous decisions made by Department managers each day. To aid in understanding the intent of the goal, descriptive statements are presented to provide additional detail on agency wide direction.		

Draft Strategic Plan Circulated for Public Review	Comments Received During Public Review (paraphrased)	Department Discussion and Recommendation
1. Address environmental issues on the basis of a comprehensive cross-media (air, water, land) approach. This goal will require the Agency to revise and update procedures for permit application evaluation, permit issuance, review of engineering plans, and review of technical proposals to assure that requirements in one environmental media (air, water, land) complement the efforts in other media and do not create new problems. It also calls for special efforts to assure that agency actions and standards protect health and the environment, are based on uniform acceptable risk factors, appropriately consider cumulative effects of pollutant exposure through various pathways, and provide an adequate margin of safety. To support this goal, it will be necessary to establish a data management system in which ambient environmental data, source emission data, and compliance information from each program are accessible and useful to other programs.	• It is unclear what "uniform acceptable risk factors" are or what "uniform" means. These questions need to be addressed and answered in the plan, so that it is self-executing. (14)	The Strategic Plan is not intended to define "uniform acceptable risk factors". It suggests that the Department should seek to approach the issue of "risk" in a uniform way. For example, establishment of a water quality standard for a pollutant based on a risk factor of one increased cancer case in one million people, and an air standard for the same parameter based on a risk factor of one in 10,000 or one in 100,000 would not be consistent with a goal that seeks to approach the issue on a uniform basis. The image that comes to mind for the words "self-executing plan" is that of a cook book. The Strategic Plan is intended to provide general direction to decision makers; it is not intended to be a "cook book".
	• METRO would like to cooperate with DEQ in data base development and sharing. (9)	DEQ will be glad to cooperate with METRO in data base development and sharing.
	• Strongly supported; a much needed redirection of efforts that will reduce "uncoordination." (12)	
2. Aggressively identify threats to public health or the environment and take steps to prevent problems which may be created. This goal will require improved monitoring to provide essential data to describe current environmental quality, evaluate identified problems, model environmental affects of proposed actions, and evaluate trends in environmental quality. It will also be desirable to develop the capability to track regional/national/international technical/social/economic events and trends that may have significant relationship to Oregon environmental trends, programs, and opportunities for preventive action. It will be necessary to develop enhanced and new capability to perform environmental trends analysis and	• Long overdue; many problems will not be solved until a solid database is in place. (12)	
	• On a statewide basis, ambient monitoring is at a minimum or non-existent. (5)	
	• Does "taking steps" mean enforcement? Existing problems must not be ignored. The goal should articulate DEQ's intent to eliminate existing problems and engage in active enforcement. The goal only addresses half the problem. (14)	The words "taking steps" do not specifically mean 'enforcement', but certainly can include enforcement as one of the steps taken. Enforcement is one of the tools that is used and will be used to make progress toward the goals.
	• This goal is supported, but cleanup of existing problems may be as important if not more important than anticipating new problems. (11)	The Department agrees that cleanup of existing problems is important. This goal is not intended to suggest that cleanup efforts should be abandoned. However, experience shows that problems

Draft Strategic Plan Circulated for Public Review	Comments Received During Public Review (paraphrased)	Department Discussion and Recommendation
evaluate varied sources of information to anticipate problems and develop problem-preventive strategies.	• This goal implies that only the future is of concern; emphasis needs to be placed on existing problems (enhancing and restoring). (2)	can be created faster than they can be cleaned up. The goal, as proposed, strongly suggests that significantly more attention needs to be paid to development and implementation of strategies which result in prevention of problems.
3. Ensure that unallocated assimilative capacity exists by applying "highest and best" technology in conjunction with pollution prevention methods. The environment has limited capacity to assimilate pollutants from human activities without interfering with public health and the quality of life our citizens enjoy. After extensive pollution control efforts, existing industries, cities, and citizen activities produce some residual pollution that utilizes portions of this assimilative capacity. This goal seeks to assure that we never allocate all of the assimilative capacity to existing sources and activities. As population and industry grow, it is necessary to find new ways to reduce and remove pollutants to meet this goal. We also will need to develop new and improved capability to determine the environmental assimilative capacity in areas and environmental media of concern. Refinement of the processes for determining the appropriate uses of increments of currently unused assimilative capacity will be required.	• Assimilative capacity should be based on pure scientific evaluation. (3) • Cities and industries do not have an exclusive right to use streams as a disposal system. There is concern that Goal 3 will lead to more pollution rather than protect streams for their intrinsic value. (2) • Does not include enough emphasis on prevention. Computing the assimilative capacity must not be done with the concept of saturation in mind; a "clean environment" buffer should be built in so that we are not always riding the line of health and welfare standards. (12) • Assessments of assimilative capacity cannot be based on "highest and best" technology. This goal must be revised to reflect an intent to ensure that unallocated assimilative capacity exists by applying substantive qualitative standards and looking at beneficial uses. (14) • This goal implies that technology (e.g., waste incineration) is going to solve the problem and that we can still manufacture and market products whose disposal requires the use of "high technology". Recycling is "low technology" and is the best answer. (8) • The phrase "highest and best" needs to be better defined, and the intent of "assimilative capacity" needs to be clarified.	The Department generally agrees with most of the comments on this goal and believes that the comments are consistent with the intent of the goal as worded. The term "highest and best" was included to reflect a desire to push for better and better technology to control pollution, even if that level of technology is not currently needed to meet standards and assure that assimilative capacity is not exceeded. As such, "highest and best" was used more as a term of "art" than a term of "science". A definition may have the effect of limiting the intended result of being "technology forcing". The Department does not propose any modifications to this goal.

Draft Strategic Plan Circulated for Public Review	Comments Received During Public Review (paraphrased)	Department Discussion and Recommendation
—	Suggested wording follows: "Highest and best ... the optimal combination of proven equipment or process technologies, based upon the assessment of all life-cycle economic costs, best engineering practices and the avoidance of undue economic hardship, which results in the highest level of overall environmental quality." "A substantial increment of assimilative capacity shall be maintained." (9) • If this goal is recommending cumulative impact analysis, then we agree and support it. The data system of goal 1 should also support this. (11)	
4. **Minimize the extent and duration of unpermitted releases to the environment through a technically sound compliance program which is timely, serves as a deterrent, and ensures that an economic advantage is not gained by non-compliance.** This goal anticipates review and restructuring of existing compliance assurance activities to assure that environmental quality objectives are achieved. Examples of actions that may be desirable to assist in achieving this goal include: review of existing permits and revision as necessary to assure that permits are achievable and clearly understood by permittees, and that conflicting, unenforceable, or unessential permit conditions are eliminated; expansion of the use of self monitoring and reporting by sources (which is objective and valid) as a means to make more effective use of existing DEQ field staff; improvement of technical training of agency staff to make compliance determinations; and enhancement of the capacity and range of	• A more appropriate goal would be to eliminate unpermitted releases. The goal should also make reference to enforcing existing permits. It is not clear what considerations go into determining when a permit is unenforceable or unachievable. (14) • Sufficient budget should be provided to enforce, rather than waiving requirements. (2) • DEQ's compliance program is very weak, is ineffective, and commands little respect. (5) • The explanatory statement should be strengthened by including comments that any such permit changes should also consider that the primary and overriding goal is to protect the environment through improved management and permit processes. (9)	It is not realistic to assume that all unpermitted releases can be eliminated. Thus the Department chose to use the word minimize. Most of the comments relate to the descriptive statement that accompanies the goal, and specifically the "examples of actions that may be desireable to assist in achieving this goal.." The concerns raised in the comments are noted and will be further evaluated as specific actions are planned and implemented. The Department shares many of the concerns on self monitoring, however, is seems appropriate to appropriately use self monitoring as one means of increasing the available information for environmental quality control purposes.

Draft Strategic Plan Circulated for Public Review	Comments Received During Public Review (paraphrased)	Department Discussion and Recommendation
laboratory analytical capability to support field compliance determinations.	• Add wording that self monitoring should be required only to the extent necessary, based on sound scientific judgement, to protect the environment (ie don't go overboard in the amount of self monitoring required). (3) • Increased reliance on self monitoring should be carefully examined. Audits, tracking, etc associated with self monitoring may consume more resource than if DEQ did the monitoring itself. (5) • Commendable and necessary. Self monitoring is a concern. The possible opportunities for violation are too overwhelming. This aspect should be eliminated. (12) • This goal is supported, but reliance on self monitoring is a very poor strategic choice until the objectivity and validity of data is assured and accepted by the public. (11) • Goal 4 and Priority 1.B.2 – increased self monitoring is a bad idea. Resources should go to increased monitoring by DEQ rather than certification of self monitoring. (2)	
5. Promote public awareness of the environment and cultivate a personal sense of value and responsibility for a healthy environment. Past environmental quality control efforts have focused largely on treatment and control of industrial and municipal activities. Pollution control efforts are increasingly recognizing the larger number of small sources – the activities of each of us as individuals. Thus, to achieve environmental quality goals, we need to secure assistance from experts in understanding options for changing attitudes of the public regarding their actions and environmental quality. We also need to develop a broad-based	• DEQ should be involved in environmental education in elementary and secondary schools. (2) • Educational outreach is essential. Creative incentives and disincentives are needed to buttress an education program. (11) • Emphasis on prevention of environmental injury through education and proactive preventative actions, as opposed to heavy reliance on remediation of environmental problems through enforcement is important. The existing regulatory framework is far too complex and dynamic for most local jurisdiction to track or understand. Inability of DEQ to	The Department generally agrees with the comments submitted. The inclusion of this goal is intended to increase the emphasis on the importance of increasing public awareness on environmental issues. Education is a primary way of accomplishing this goal.

Draft Strategic Plan Circulated for Public Review	Comments Received During Public Review (paraphrased)	Department Discussion and Recommendation
strategy for informing the public of the relationship between their actions and environmental quality, and integrate implementation of this strategy into all agency actions. Other options for action include exploring options for product labeling as a means of fostering awareness of environmental effects of marketplace products, and enhanced public involvement in agency program development.	adequately inform and educate permittees will invite preventable environmental injury. (15) • The Unified Sewerage Agency is willing to share "Tualatin River Ranger" program concept. (3)	
6. Employ the highest professional and ethical standards in dealing with the public, regulated community, and co-workers. This goal will require the Department to develop a clear statement of values to guide agency actions and attitudes. In part, this statement should reflect respect and appreciation for the views of others, and continue to result in decisions that are unbiased, objective, equitable, and based upon sound facts. All staff should be trained to ensure that a consistent approach reflecting department values is followed in dealing with the public, regulated community, and co-workers.	• "Experts" are not needed to cultivate and promote a sense of value and responsibility for the environment. (5)	The Department would generally agree with the comment, however, that is not the intent of the goal.
7. Foster a workplace atmosphere which emphasizes safety; encourages affirmative action; promotes creativity, pride, enthusiasm, productivity, active participation in the issues; and allows staff members to apply their fullest capabilities. If environmental goals are to be achieved, attention must also be paid to the work environment for the staff of the agency. We need to provide adequate time and opportunity for staff to perform quality work, to systematically acknowledge quality work, to promptly address deficient performance, to provide an environment which fosters participation and creativity, to assure	• DEQ staff perceives and views the agency mission as failing. Morale is low and falling. The Agency shouldn't hold out for 100% of the facts or data before it will make a move. (5) • DEQ activities are too "health issue driven". (5)	The Department must balance the competing pressures to make decisions quickly, without additional information, and to defer decisions until all the desireable and necessary information is available. The present environment of increased "legal challenge" tends to cause more emphasis on acquiring additional facts and data before decisions are made.

Draft Strategic Plan Circulated for Public Review	Comments Received During Public Review (paraphrased)	Department Discussion and Recommendation
a safe work-place through training and effective implementation of safety programs, and to continuously strive to meet affirmative action goals.		
8. Streamline agency programs and activities by identifying and implementing more efficient ways to accomplish essential actions and by eliminating low priority tasks. This goal will require the Agency to systematically evaluate rules, permits, procedures, policies, and activities to find ways to streamline and find more efficient ways to accomplish the desired results. It will also require identification of programs or activities that can more effectively and efficiently be accomplished by other government agencies and seek to transfer such activities to those agencies. Efforts are also appropriate to identify and eliminate work tasks which contribute little to environmental quality protection (accomplishing the goals of this plan) so as to free resource for higher priority tasks.	• Any transfer of programs should be with the knowledge and cooperation of those involved. It is suggested that the following be added to the end of the explanatory statement: "Transfer of programs or elimination of programs may be undertaken only after consulting with representatives of potentially affected industries, local governments, and the general public. Transfer of programs shall consider the financial impacts to local governments, agencies or others assuming the fiscal burden." (9) • Streamlining programs and activities will be a nearly automatic product of an involved, effective and motivated staff. (11)	The Department agrees that any transfer of programs from the state to the local level should be with the knowledge and cooperation of those involved. However, the Department does not believe the that suggested added wording to the explanatory statement is appropriate.
9. Maximize the effectiveness of the Environmental Quality Commission in achieving Oregon's environmental goals. The Environmental Quality Commission consists of five citizens appointed by the Governor. By law, they are responsible for establishing the policies which guide the Department in carrying out state environmental laws. They adopt environmental standards, and procedural rules which govern actions by industries, cities, and citizens. The Commission has the opportunity to be a proactive force in the development of environmental policy. The Commission helps to bridge the gap between the citizen and the regulatory process. The effectiveness of the Commission can be enhanced through involvement in environmental policy issues at the earliest	• The EQC should continue to be involved in policy decisions. (9)	

Draft Strategic Plan Circulated for Public Review	Comments Received During Public Review (paraphrased)	Department Discussion and Recommendation
opportunity. However, to avoid diluting the effectiveness of the Commission, efforts must be made to reduce the number of issues on the Commission agenda by eliminating items where statute or rule do not require action.		
	• ENFORCEMENT is lacking as a goal or priority throughout the document. This oversight is shocking and disquieting. Enforcement should be a critical element of each and every part of the regulatory scheme. (14)	The Department does not agree with the comment. Enforcement is one of several "tools" that must be used to achieve the goals. The effort has been to focus on the desired result rather than focusing on one method and perhaps limiting the use of other effective tools.
	• Goals should be more explicit about the environmental quality/land use relationship. Effective, up-to-date comprehensive plans, properly coordinated with DEQ programs, can play a significant part in addressing existing problems and avoiding future problems. (10)	The Department agrees that enhancement of the environmental quality/land use relationship can assist in achieving environmental goals. However, since the goals are intended to focus on the desired result rather than specific methods for achieving the result, no change in wording of goals is proposed.
	• Oregonians care deeply about the quality of their environment. Public concern for wetlands, for the quality of the water in our lakes and streams, for air quality in wilderness areas, is high. A strategic goal should be to capitalize on those concerns. (11)	The Strategic Plan addresses this comment best in the fifth assumption. All of the goals are intended to address the concern that Oregonian's have for their environment.
	• Restoration does not appear to be emphasized in the goals and priorities. (13)	"Restoration" is included in the Mission Statement and within Goals 1, 3, and 4 even though the words are not specifically mentioned.
	• Proposed New Goal -- Solid Waste "The guiding principle for the management of Solid Waste shall be to return the maximum amount of material to the marketplace in the highest form possible in order to maximize the conservation of resources." (1)	The Department agrees with the statement, but does not propose to add it as a goal. The intent should be captured in the Solid Waste program priorities.
PRIORITIES		

Draft Strategic Plan Circulated for Public Review	Comments Received During Public Review (paraphrased)	Department Discussion and Recommendation
—		
The Agency has identified priorities for each major program. It is assumed that on-going work (development and update of standards, pollution control strategy development, permit issuance, pollution control facility plan review, compliance inspections, enforcement, complaint investigation, environmental quality monitoring, etc.) will continue at approximately present levels unless identified as a potential target for modification as part of the priorities on these lists. The Agency has also identified priorities for reduction of staff effort through modification, deferral, or elimination of activities in order to be able to assign resources to pursue identified high priorities. The priorities are expected to be reflected in Division Operating Plans as specific objectives and tasks.		
PRIORITIES FOR ALL PROGRAMS High Priorities		
1. Restructure compliance inspection programs to base the inspection frequency and level of effort for each source on the environmental threat posed by the source. (Goal 4)		
2. Develop a comprehensive data management system that supports management decision making and facilitates exchange of information between Department programs and other agencies. (Goals 1 & 2)	• Data management cannot substitute for a dynamic field presence by staff. (5)	The Department agrees.
3. Streamline the permit issuance process and eliminate the backlog of pending permit applications. (Goals 1 & 8)	• Eliminating permit backlogs should not be used as a license to "rubber stamp" and issue these permits. Permits should be denied if the permittee has not provided sufficient data. (14)	

Draft Strategic Plan Circulated for Public Review	Comments Received During Public Review (paraphrased)	Department Discussion and Recommendation
—	• This statement should be modified to reflect the need to clarify and improve permitting procedures with local governments, and other agencies where multiple approvals of the same project is involved. (10)	Clarification of procedures related to coordination with local governments on land use and the permitting process will have to be a part of any permit process streamlining evaluation.
4. Develop and implement new initiatives for informing the public about actions they can take to reduce pollution. (Goal 5)		
5. Provide training and development opportunities for agency staff to assure a highly qualified and knowledgeable staff. (Goals 6 & 7)	• Conferences and seminars are rarely as effective as desired (as a means of training). (5)	
6. Implement a Health & Safety Plan to protect employees who may come in contact with hazardous substances. (Goal 7)		
7. Develop options for stable long term funding to achieve environmental protection goals. (All Goals)	• Need an aggressive search for additional funding sources. (2) • Long term funding must include increased permit fees. (14) • A more extensive discussion of the financial considerations (appropriate as well as adequate funding) should be included in the strategic plan. Guidance should be provided for future sources of funding. User groups should not pay for programs to which they have no direct relation. The following addition is suggested: 7.Develop options for stable long-term funding to achieve environmental protection goals <u>including user fees:</u> <u>a. Relying to the greatest extent possible on funds that relate directly to activities that have a bearing on, or will benefit</u>	The Department understands the views of the commenter. The Department does not agree with the recommendations that "extensive discussion of the financial considerations should be included in the strategic plan". The Department does not propose to modify the wording of this priority.

Draft Strategic Plan Circulated for Public Review	Comments Received During Public Review (paraphrased)	Department Discussion and Recommendation
—	from, achievement of the environmental protection goal. b. To the extent additional funds are needed, relying on general fund support or sources of funds reflecting the segment of Oregon society being benefitted by the environmental protection goal. (All Goals). (6)	
Resource Reduction Priorities		
• Reduce staff effort related to preparation for Environmental Quality Commission meetings by reducing the number of items on the agenda.		
• Reduce staff effort expended in monitoring sources by increasing the reliance on valid and objective self monitoring and reporting. This will require development and implementation of effective programs for lab certification and selective auditing of self monitoring efforts.	• Will this work at cross purposes with High Priorities 1 and 2? (14)	The Department does not believe this is inconsistent with high priorities 1 and 2.
• Reduce staff efforts by transferring activities that logically should be provided at the local level to the appropriate local governments.	• How will consistency be maintained if programs are administered by many different local governments? (5)	If statewide consistency is a significant issue for a particular activity, such activity could be administered by local governments pursuant to uniform rules adopted by the state.
• Reduce staff effort devoted to responding to issues which are solely nuisance in nature. (ie those that do not constitute a hazard to public health or the environment.)	• Concern since complaints are an important source of information regarding signs that the environment is out of balance. (2) • The Public our eyes and ears; we cannot afford to disregard the troublesome, nuisance complaints. (5)	The Department agrees with the view of the commenters that complaints can be an important source of information. However, available resources do not allow response to every complaint. A better screening and ranking system, such as that suggested by this item, is needed.
• Modify technical assistance efforts to emphasize group		

Draft Strategic Plan Circulated for Public Review	Comments Received During Public Review (paraphrased)	Department Discussion and Recommendation
approaches rather than one-on-one technical consultation. Also, develop technical assistance efforts which utilize the expertise of individuals and groups outside the Department to accomplish the desired goal.		
WATER QUALITY PROGRAM		
High Priorities		
1. Obtain adequate information to determine the status of water quality in general and to establish the assimilative capacity for specific priority waterbodies. (The entire state should assessed as rapidly as resources permit.) (Goals 2 & 5)	• This is appropriate is the first priority. (14)	
2. Utilize the State Clean Water Strategy (SCWS) to establish priorities for prevention and corrective actions which need to be taken by the Department. The SCWS is a problem prioritization method which ranks streams according to their problem severity and beneficial use value. (Goals 2 & 4)	• Priorities that affect METRO should be developed with substantial participation by METRO. (9)	The Clean Water Strategy process involves development of a ranking of problems and proposed actions based on evaluation of available information. Public input is then invited on the proposed strategy. METRO would have opportunity for input through this process.
	• Any stream deserves total protection and/or restoration. (5)	Since everything cannot be done at once, some method of establishing priorities is necessary.
	• This priority is appropriate, but the concept of enforcement is lacking. (14)	Implementation, including appropriate enforcement, is included in priority 3.
3. Implement aggressive source control and problem prevention programs based on the priorities established that explore and encourage use of environmentally sound alternatives for disposal of treated wastewater which do not adversely affect air, land, stream, and groundwater quality. (Goals 1, 3, & 8)	• This priority is appropriate, but the concept of enforcement is lacking. Any intent to back away from enforcement is opposed as a policy choice. (14)	Aggressive source control is intended to include enforcement.
	• Utilizing the Best Achievable Control Technology analysis of treated wastewater alternatives in addition to the cross-media	

Draft Strategic Plan Circulated for Public Review	Comments Received During Public Review (paraphrased)	Department Discussion and Recommendation
	approach, can be a productive decision-making tool. (9)	
Resource Reduction Priorities		
• Defer development of a long-term lake protection/restoration program.		
• Defer development of a statewide long term estuaries/ocean program.	• METRO Council Policy supports estuary programs. Priority for this effort should not be reduced. (9)	The Department understands METRO's concern, however, everything cannot be done at the same time; some items must be deferred until later.
AIR QUALITY PROGRAM		
High Priorities		
1. Achieve healthful air quality levels in all pre-1989 non-attainment areas and maintain healthful levels in all attainment areas while allowing for continued economic growth wherever possible. (Goals 2, 3, & 4)	• Enforcement should be included as an effective mechanism for reducing area source emissions. (14) • Each large city in the metro area should have a Parking and Circulation Policy. (1) • Devote more resources to parking (indirect source rule). (1) • Reduction of Vehicle Miles Driven should be a priority. (1) • DEQ should be an advocate for an efficient transportation system. (1)	The wording of this priority in no way precludes use of enforcement as a means of achieving the stated objective. These comments regarding parking and transportation appear to relate most closely to this priority. The comments appear to be possible option for meeting the objective of the priority.
2. Establish a systematic approach to complete and maintain a statewide assessment of Oregon's air quality. (Goal 2)		

Draft Strategic Plan Circulated for Public Review	Comments Received During Public Review (paraphrased)	Department Discussion and Recommendation
3. In order to significantly reduce harmful exposure of the public to airborne toxic pollutants, establish an air toxics program which, through the permit process, addresses both new and existing sources and provides a level of protection equal to that of other environmental media. (Goals 1 & 2)	• The serious problem of dioxin, furan and heavy metals, present in incinerator air discharges and ash is ignored. (8)	This priority is intended to address the issues raised in this comment as well as other airborne toxic pollutants.
4. Develop improved methods to achieve reductions in area source emissions such as: public education, consumer product labeling, emphasis on pellet vs. cordwood home heating systems, etc. (Goals 3 & 5)		
Resource Reduction Priorities • Woodstove certification program; defer to the national certification program.		
HAZARDOUS AND SOLID WASTE PROGRAM		
High Priorities		
1. Develop consistent cleanup standards at waste management facilities under HSW jurisdiction and then identify and have a department approved strategy for cleanup of each problem site. (Goals 1 & 3)	• The time span is too long for problem identification, plan of action, and actual clean up at waste management facilities. (5)	
2. Significantly reduce the disposal of domestic solid waste in the state through an expanded bottle bill, adoption and implementation of recycling goals and standards and improved markets for recyclables. (Goal 2)	• Excellent. Place real emphasis on this one. (8) • DEQ needs to have a major role in assuring increased recycling by local governments. (1)	The Department understands the comments provided. However, available resources limit the number of items that can be undertaken in the near term.

Draft Strategic Plan Circulated for Public Review	Comments Received During Public Review (paraphrased)	Department Discussion and Recommendation
—	• Followup on Waste Reduction Plans should be a priority. (1) • Need to assure funding for improved recycling systems. (1) • Question "expansion of the Bottle Bill" as a priority. Should replace words with "Economic Incentives". (1) • Efforts should go beyond extended bottle bill and improved markets for recyclables. Efforts should be on a regional basis rather than a statewide basis. Suggested wording: "Significantly promote waste reduction and recycling by establishing regional target rates of recycling progress which promote the design of recycling programs relevant to local conditions." (9)	The Department would propose to reword the priority as follows: Significantly reduce the disposal of domestic solid waste in the state through the adoption and implementation of solid waste reduction and recycling goals and standards, improved markets for recyclabales, and expanded education programs aimed at changing consumer habits. (Goal 2)
3. Significantly decrease the percent of domestic solid waste being disposed in landfills without state-of-the art technologies such as double liners and leachate collection through development and enforcement of new solid waste disposal standards. (Goal 3)	• Reevaluate Solid Waste Hierarchy -- Source separation should be higher priority, composting should be mentioned, burning and landfilling should be on the same level. (1)	This will be evaluated as rule updates are developed.
4. Significantly reduce the amount of toxic chemicals used and hazardous waste generated in the state through comprehensive implementation of the 1989 Toxic Use Reduction and Hazardous Waste Reduction law and enhanced technical assistance to hazardous waste generators. (Goals 3 & 4)	• This must include dioxins and heavy metals now being produced by municipal and hospital waste incinerators. Regional incinerators are not in Oregon's best interest. (8)	The Department understands the commenters concerns regarding incineration of infectious waste, however, the legislature has established policy in this area requiring incineration as the preferred option.
5. Significantly increase the amount of products purchased by government which utilize non-virgin materials in their manufacture.		

Draft Strategic Plan Circulated for Public Review	Comments Received During Public Review (paraphrased)	Department Discussion and Recommendation
6. Develop and implement comprehensive strategies to reduce the generation of special wastes and manage the special wastes that are generated. (Special wastes include household hazardous waste, waste from conditionally exempt hazardous waste generators, incinerator ash, infectious waste, oil contaminated wastes, etc.) (Goal 2)		
7. Clarify the responsibility for solid waste management so that local governments are specifically responsible for solid waste planning and implementation of the laws that pertain to solid waste disposal and recycling.	• This is an area where policy clarifications are needed, particularly with respect to METRO and rural areas outside the METRO boundary. DEQ should also make sure that DEQ permits are consistent with the METRO Solid Waste Management Plan. (9)	These comments will be considered as this priority is pursued.
8. Assist owners of underground storage tanks in complying with federal standards by comprehensive implementation of a 1989 law which provides grants for site and tank inspections and loan guarantees/interest rate subsidies for tank upgrades and cleanups.		
	• Should additional training and certification requirements for operators of Solid and Hazardous Waste transfer, storage and/or disposal facilities be added as a priority? (13)	The Department is evaluating this suggestion further. At this time, it is not proposed for addition as a priority.
Resource Reduction Priorities		
• Substitute Department conducted monitoring of groundwater at solid waste disposal sites with valid and objective monitoring by site operators.		
• Implement the new groundwater protection rules at high	• Groundwater protection rules should be implemented statewide.	Groundwater protection rules generally are being implemented

Draft Strategic Plan Circulated for Public Review	Comments Received During Public Review (paraphrased)	Department Discussion and Recommendation
priority solid waste disposal sites only.	(5)	statewide, on a priority basis subject to available resources. This item suggests that specific evaluation of groundwater issues at lower priority solid waste sites will be deferred while higher priority issues are pursued. If a groundwater problem is suspected or known to exist at a solid waste site, it would be viewed as a high priority site.
• Reduce the review of and eliminate the need to approve annual wasteshed recycling reports.	• Clarification of roles with respect to METRO would be appropriate. Perhaps METRO should conduct reviews and report to DEQ. (9)	This recommendation is being evaluated further.
• Reduce the Department's workload by requiring RCRA facility operators, with Departmental oversight, to do the facility assessments necessary to obtain closure or post closure permits. Now, the Department does the assessments for the operator.	• Oversight should be timely and it should not take years to achieve acceptable closure plans. (5)	
• Substitute EPA guidance documents for one-on-one technical assistance to operators of hazardous waste sites who are developing corrective action strategies.		
ENVIRONMENTAL CLEANUP PROGRAM		
High Priorities		
1. Enhance the environmental cleanup program to include a non-complex cleanup process (with an appropriate regional component) that will promote voluntary cleanups by responsible parties with limited DEQ oversight. (Goal 8)		
2. Aggressively pursue responsible parties to ensure the use of their resources wherever possible to achieve timely cleanups		

Draft Strategic Plan Circulated for Public Review	Comments Received During Public Review (paraphrased)	Department Discussion and Recommendation
and attain a goal of recovering at least 75% of DEQ expenditures for oversight of these cleanups. (Goal 4)		
3. Complete rulemaking on criteria and procedures for the Confirmed Release List, the Site Inventory, Preliminary Assessments and the Hazard Ranking System and implement on an agency-wide basis. (Goals 1 & 2)		
4. Secure funding for orphan site cleanups by receiving E-Board approval to sell Pollution Control Bonds to clean up one or more specific sites. (Goals 1 & 2)		
Resource Reduction Priorities		
• Defer implementation of rulemaking/guideline development necessary to do natural resource damage assessments. The Department is authorized to recover damages from responsible parties for injury to or destruction of natural resources caused by a release of hazardous substances.	• Will this impede progress in recovery of clean up expenses under High Priority No. 2? (13)	The Department does not believe this deferral will impede recovery of DEQ expenses for oversight of cleanups.
• Defer further development of financial assistance program for responsible parties who are unable to finance investigations and cleanup. The Department has statutory authority to provide financial assistance in the form of loans and loan guarantees to needy responsible parties, but resources are inadequate to implement except on a very limited basis.		
• Until "High Priority Issue" 1 above is implemented, assistance or oversight for most responsible parties wishing to voluntarily investigate and cleanup their sites will not be available.	• Can we afford, at any time, not to permit and encourage voluntary cleanup? (5)	The Department is exploring other options for expediting voluntary cleanups that do not require investment of significant DEQ resources.

Draft Strategic Plan Circulated for Public Review	Comments Received During Public Review (paraphrased)	Department Discussion and Recommendation
• Defer adoption of rules defining an "unwilling" responsible party under HB 3515 and defer use of the "non-binding review" provision of HB 3515. This means the Orphan Site Account in HSRAF (state superfund) will not be immediately available for cleanups at sites where the responsible parties are unwilling to conduct the cleanup using their resources.		
	• Clean up of a definite number of high priority waste sites during 1991-93 biennium should be a priority. (13)	
	General Comments	
	• There is concern over the lack of focus on ground water protection and enhancement. Groundwater only appears in the resource reduction categories under Hazardous and Solid Waste and Environmental Cleanup. (13)	Groundwater is clearly included as priority 3 in Water Quality.
	• Enforcement of current laws should be made a priority. More resources should be devoted to this end. (2)	Several comments relate to enforcement, assistance to the regulated community, and the perceived imbalance between induced compliance and enforced compliance. Some suggest that enforcement efforts are insufficient and not emphasized enough, others suggest a need for greater emphasis on assisted or induced compliance. The Department does not expect to resolve this difference in viewpoint. The Strategic Plan draft seeks to emphasize the desired result rather than the specific method or combination of methods used to achieve the desired environmental results. Both enforced compliance and induced compliance strategies will be used as necessary and appropriate to achieve the desired environmental results.
	• DEQ should perhaps transfer enforcement authority to the State Police. (5)	
	• DEQ should seek criminal authority to complement its civil enforcement authority. (5)	
	• The concepts of induced compliance, cooperative efforts, and joint research should be included in the Strategic Plan. (7)	
	• The draft does not seem to encourage cooperation between those directly involved in a problem solving situation. (7)	

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—	• The plan document leads one to the observation that there is an imbalance between induced compliance and enforced compliance (induced compliance is preferred). (7) • A goal should identify the Department as a Service Organization that provides needed technical services and other assistance to its clients. (3)	
	• Research should be recognized as an important part of the solution to environmental problems. Facts provide a more solid basis for solutions than perceptions. (7) • DEQ should have a Research Division. (5)	The Department recognizes the value of research in the environmental protection field. Funding constraints limit the ability of the Department to significantly participate directly in the research.
	• Is it possible that creation of a single Department of Natural Resources would enhance Environmental Protection? (5) • The Public Affairs section should be "on the road". (5) • A shift to waste reduction and minimization is supported. (6) • Oregon regulatory agencies are arbitrary, caprice, and anti-industry biased. (4)	

WHAT COMES NEXT

Following are the anticipated next steps in the ongoing Strategic Planning Process:

1. Opportunity for Review and Input by the Public.

Draft Strategic Plan Circulated for Public Review	Comments Received During Public Review (paraphrased)	Department Discussion and Recommendation
— 2. Revise this plan as appropriate based on further input. 3. Develop individual Operating Plans for each Division. The Senior Managers of the Department will then review operating plan priorities, prepare preliminary proposals for any reallocation of resources, and report to the Commission. Note: Operating Plans are internal management documents developed by individual Divisions within the Department to guide day to day actions and facilitate achievement of the expectations reflected in the Budget, Federal Grant Agreements, and the Goals of the Strategic Plan. Operating Plans are the subject of discussion and review by Department managers on a frequent basis. 4. Develop Performance Indicators and a system for periodic reporting to the Commission. Note: Performance Indicators are measures of accomplishment that are developed, tracked and routinely reported to the Commission and Department managers to provide a clear indication of progress toward meeting the Goals reflected in the Strategic Plan. 5. Develop preliminary legislative concept proposals and budget decision packages for early presentation and discussion with the Commission. 6. Annually review and update the Strategic Plan.		

Attachment 2

Index of Comments on Strategic Plan

1. Jeanne Roy, Portland (Received 3/26/90)

2. Gary Arnold, Portland (Dated 4/2/90; Received 4/5/90)

3. Unified Sewerage Agency of Washington County, Hillsboro; Gary Krahmer, General Manager (Dated 4/6/90; Received 4/10/90)

4. Dr. L. M. Foster, Corvallis (Dated 4/9/90; Recieved 4/10/90)

5. Jim Parr, Portland (Dated 4/5/90; Received 4/11/90)

6. Chem-Security Systems, Inc., Arlington; Donald A. Haagensen and David S. Barrows (Dated 4/11/90; Received 4/11/90)

7. Asphalt Pavement Association of Oregon, Salem; James E. Britton, Executive Director (Dated 4/10/90; Received 4/11/90)

8. Citizens for Klamath Quality Living, Klamath Falls; Carol Yarbrough (Dated 4/10/90; Received 4/11/90)

9. METRO, Portland; Richard H. Carson, Director Planning and Development (Dated 4/10/90; Received 4/11/90)

10. Department of Land Conservation and Development, Salem; Susan Brody, Director (Dated 4/11/90; Fax Received 4/11/90; Original Received 4/16/90)

11. Sierra Club, Oregon Chapter, Eugene; John Albrecht, Chair (Dated 4/9/90; Received 4/12/90)

12. Oregon Environmental Council, Jacksonville; Paul Wyntergreen, Regional Director (Dated 4/9/90; Received 4/12/90)

13. Water Resources Department, Salem; William H. Young, Director (Dated 4/12/90, Received 4/16/90)

14. Northwest Environmental Defense Center, Portland; Karl G. Anuta, President (Dated 4/14/90; Received 4/16/90)

15. Association of Oregon Sewerage Agencies, Portland; Bill Gaffi, Chair (Faxed Copy Dated 4/20/90)

NEIL GOLDSCHMIDT
GOVERNOR

Environmental Quality Commission

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WORK SESSION
REQUEST FOR EQC DISCUSSION

Meeting Date: May 24, 1990
Agenda Item: 2
Division: Air Quality
Section: Planning & Development

SUBJECT:

Noncriteria (Toxic) Air Pollutant Rules - Background Discussion

PURPOSE:

Provide background information to the Environmental Quality Commission (EQC, Commission) in preparation for consideration of future rules to reduce the release of toxic air pollutants from new and existing sources.

ACTION REQUESTED:

_X_ Work Session Discussion
  _X_ General Program Background
  ___ Potential Strategy, Policy, or Rules
  ___ Agenda Item ___ for Current Meeting
  ___ Other: (specify)

___ Authorize Rulemaking Hearing
___ Adopt Rules
  Proposed Rules — Attachment ___
  Rulemaking Statements — Attachment ___
  Fiscal and Economic Impact Statement — Attachment ___
  Public Notice — Attachment ___

___ Issue a Contested Case Order
___ Approve a Stipulated Order
___ Enter an Order
  Proposed Order — Attachment ___

___ Approve Department Recommendation
___ Variance Request — Attachment ___
___ Exception to Rule — Attachment ___
___ Informational Report — Attachment ___
___ Other: (specify) — Attachment ___

DESCRIPTION OF REQUESTED ACTION:

No action required; this is an informational report.

AUTHORITY/NEED FOR ACTION:

___ Required by Statute: _____ — Attachment ___
Enactment Date: _____
_X_ Statutory Authority: ORS 468.275 - 355 — Attachment ___
___ Pursuant to Rule: _____ — Attachment ___
___ Pursuant to Federal Law/Rule: _____ — Attachment ___

___ Other: — Attachment ___

___ Time Constraints: (explain)

DEVELOPMENTAL BACKGROUND:

___ Advisory Committee Report/Recommendation — Attachment ___
___ Hearing Officer's Report/Recommendations — Attachment ___
___ Response to Testimony/Comments — Attachment ___
___ Prior EQC Agenda Items: (list) — Attachment ___

___ Other Related Reports/Rules/Statutes: — Attachment ___

_X_ Supplemental Background Information — Attachment A

The 1970 Clean Air Act established National Ambient Air Quality Standards for six pollutants, referred to as "criteria air pollutants." In 1977 when Congress reauthorized the Act, there was concern that the thousands of new chemicals entering the marketplace each year were not being adequately regulated. A new part was added (National Emission Standards for Hazardous Air Pollutants) to control emissions of pollutants "which may reasonably be anticipated to result in an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness." Over the next 13 years air emissions of only 7 additional substances have been regulated.

An Environmental Protection Agency (EPA) study, requested by Congress and completed in May 1985, concluded that 15-45 pollutants (the number examined in the study) may cause 1300 to 1700 cases of cancer a year nationwide. Numerous additional studies have now confirmed that exposure to routinely released toxic air pollutants can cause significant public health problems.

Over the past 3-4 years the Department of Environmental Quality (DEQ, Department) has been compiling the data necessary to determine the scope and magnitude of the problem in Oregon. A survey of permitted air contaminant sources, and emission estimates for area sources, was used to compile a Toxic Air Pollutant Emission Inventory for Oregon in 1987. This survey indicated that 55 million pounds per year of toxic chemicals are released in Oregon each year. Ambient monitoring conducted in Portland during 1988-89 provides evidence of toxic chemicals in our largest populated airshed. It indicates that additive cancer risks as high as 10^{-4} can be found.

While the Department has been developing new regulations, it has been relying on its existing general authority to assess the potential impact of new sources of toxic air emissions and to require appropriate controls to protect public health. Development of toxic air pollutant rules which will address Oregon's problems is nearing completion. The Clean Air Act, when reauthorized, is expected to contain a National Air Toxics Program which will have to be integrated into Oregon's air program. It is anticipated that Oregon-specific rules will be available for Commission consideration towards the end of this year. Further details and issues relating to the development of Oregon's Toxic Air Pollutant Program are contained in Attachment A.

REGULATED/AFFECTED COMMUNITY CONSTRAINTS/CONSIDERATIONS:

Sources which release toxic chemicals to the air in significant quantities may need to apply additional controls when rules are adopted.

PROGRAM CONSIDERATIONS:

Control of toxic air pollutants will be integrated into the Department's existing Air Quality Division activities. Source permitting will include additional review directed at toxic chemicals. The emission inventory will be expanded to

a much larger list of substances. Also, the statewide ambient monitoring network will include sample collection for a wider range of toxic chemicals.

When toxic chemical releases to one media are controlled, the result is often contamination of another media. New Air Quality rules will raise these cross-media contamination issues (eg. landfill and sewage treatment plant emissions) and require a coordinated Department approach. A critical part of inter-program coordination will be an acceptable risk policy for the Department.

These expanded activities will require additional resources. Several possibilities are being pursued, including: an increase in federal 105 grant funds; an increase in air contaminant discharge permit fees; new emission fees under the reauthorized Clean Air Act and/or new State legislation authorizing an emission prevention fee.

ALTERNATIVES CONSIDERED BY THE DEPARTMENT:

1. The Department could proceed with rules now, then modify them (if necessary) after the Clean Air Act with its new Air Toxics program is reauthorized.

2. The Department could wait for the Clean Air Act to be reauthorized, then adopt the federal program verbatim.

3. The Department could develop rules to address Oregon's toxic air pollutant problem, consider Advisory Committee input and new Clean Air Act requirements, and then proceed to rulemaking.

DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:

Alternative 3 is the path the Department is following. This approach would be the most efficient and appropriate way of addressing toxic air emissions in Oregon.

CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE POLICY:

Development of rules to prevent and control emissions of toxic air pollutants is consistent with Agency Policy and with Strategic Plan Goals; 1) by insuring that regulatory activities to protect other media from toxic substances do

not create air quality problems; 2) by aggressively addressing forms of air pollution, as yet unregulated, which present a significant public health threat; and 3) by requiring that the highest and best control technology, and where necessary, requiring that innovative methods of operation or control be used to protect public health and the environment.

ISSUES FOR COMMISSION TO RESOLVE:

None at this time.

INTENDED FOLLOWUP ACTIONS:

See Department Recommendation above.

Approved:

Section: _____

Division: _____

Director: _____

Report Prepared By: Gregg Lande
Phone: 229-6411
Date Prepared: May 9, 1990

GEL:a
PLAN\AH6060
(5/90)

NONCRITERIA (TOXIC) AIR POLLUTANT PROGRAM DEVELOPMENT BACKGROUND DISCUSSION

Nature and History of the Problem

The 1970 Clean Air Act established National Ambient Air Quality Standards for only six pollutants, the "criteria air pollutants". In 1977, the first time Congress reauthorized the Clean Air Act, there was concern that the thousands of new chemicals entering the marketplace each year were not being adequately regulated. Section 112 (National Emission Standards for Hazardous Air Pollutants) was added to control emissions of pollutants "which may reasonably be anticipated to result in an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness." It was designed to protect public health with "an adequate margin of safety". Over the next 13 years air emissions of only 7 additional substances have been regulated.

An EPA study, requested by Congress and completed in May 1985, concluded that 15-45 toxic air pollutants (the number examined in the study) may cause 1300 to 1700 cases of cancer a year nationwide. Point sources were found to be responsible for the highest individual risks but only about 25% of the total cancer incidence. Area sources (including motor vehicles) have low individual risks, but because they are typically located in urban areas with wide-spread public exposure, contribute significantly to the creation of multi-pollutant "urban soup" and the majority of cancer incidence attributable to toxic air pollutants. One important finding, often overlooked, was pointed out in the study. This was that controls implemented to limit criteria pollutant emissions have resulted in considerable reduction of toxic air pollutants.

Now, other studies have produced similar estimates of cancer incidence, and have expanded health concerns to other diseases as well. Most recently the Toxic Release Inventory, mandated by the Community Right-to-Know provisions of the 1986 Superfund reauthorization, has provided considerable information about releases of toxic chemicals to the environment. One interesting revelation has been that air emissions generally account for over half of the total releases. This new information has put considerable pressure on Congress, EPA, and the states to develop a more effective approach to reducing toxic air emissions.

While Congress has worked to provide a new approach to regulation of toxic air pollutants in its reauthorization of the Clean Air Act, EPA has encouraged the States to attack the problem of toxic air pollutants on their own. The result has been a multitude of

unique State programs, most focusing first on determining the scope of their particular problem, and second on developing laws and rules to reduce industrial emissions.

Oregon's Toxic Air Pollutant Program Development

In 1987 a first approximation of an Emission Inventory of Toxic Air Pollutants in Oregon was completed. Questionnaires were sent to just over 400 permitted air contaminant sources covering all the major source categories in the state. About 300 provided information on their emissions of just over 100 individual chemicals. Estimates of emissions from area sources such as slash burning, wood stoves, and motor vehicles, and non-traditional sources such as landfills and treatment storage and disposal facilities, were included.

Figure 1 is a summary of the estimated emissions for each chemical reported ranked according to the amount emitted statewide. These results were surprising since they indicated only 37 different chemicals were emitted. This ranking by amount released has no relation to the potential impact since toxicity and concentration must also be considered.

The ranking by source and chemical in Figure 2 begins to answer the question of which toxic contaminants present the greatest health risks. Again, the amounts alone carry little meaning. This data clearly shows area and mobile sources contributing the vast majority of toxic air pollutants. But acetaldehyde is often released by Slash Burning in remote locations, so exposures may not be near as great as either area or point source releases occurring in populated areas. Relative toxicity also remains a critical missing factor in determining which sources are most important.

An ambient monitoring study in the Portland area was done in 1988-89 to take an initial look at the potential exposures resulting from multi-pollutant, multi-source toxic air emissions. Monitoring for about 30 gas and particulate phase toxic pollutants was done for a year in the NW Portland Industrial area.

Figure 3 lists the pollutants found most often on the thirty sampling days. In all likelihood, combustion sources are responsible for most of the formaldehyde and acetaldehyde, and the benzene, toluene, and xylene come from the gasoline terminals. Again, the results show the importance of area and mobile sources, and that the list of toxic chemicals in the air is relatively short.

An estimate of cancer risk resulting from these exposures is shown in Figure 4. Looking at the data in this way indicates similar sources but different chemicals may be important. 1,3-butadiene from auto exhaust and 1,2-dichloroethane from gasoline

vapors pose cancer risks on the order of 10^{-4}. The aggregate risk level is similar to that found in other urban areas across the country.

Permitting of releases of toxic chemicals had been done on an informal case-by-case basis by the Air Quality Division for the past several years. This assessment included dispersion modeling to determine the potential public health risks of specific emissions. A Divisional policy, and set of permit review procedures, was established to provide consistency in how these new sources were assessed. Because of resource limitations the objective of this "Interim Procedure" has been to keep the problem from getting worse by reviewing only major new, and major modifications of existing, industrial sources. Since this is only a Division policy, we have been limited to our power to persuade industry to adopt additional controls. Thus far, all of the sources have cooperated.

The Interim Procedure requires sources to provide information on the types, amounts, and locations of all potential air emissions. Submitted emission rates are compared to "Significant Emission Rates" which the Division has developed for each of about 800 compounds. These SERs are intended to be used as a rough screening tool in order to eliminate those sources from further review which are clearly not significant.

Derivations of SER began with available toxicity information and a determination of an exposure level which protects public health. For noncarcinogens (acute and chronic) an acceptable 8 hour average ambient level was taken as 1% of the Threshold Limit Value adopted by the American Conference of Governmental Industrial Hygienists. This is a generally accepted conversion of worker standards to general population exposure limits. The acceptable ambient level for carcinogens was taken to be the annual average concentration at which there would be a 1 in 100,000 chance of getting cancer (10^{-5} risk), where cancer risks in the range of 10^{-4} to 10^{-6} are generally accepted.

In cases where SER are exceeded, and modeling confirms that ambient concentrations would be above the guidelines, mitigation measures are required. To date, about 10 sources have been requested to apply additional mitigation measures to reduce the release of toxic air pollutants.

Through its experience with the Interim Procedure, through watching other states develop toxic air pollutant programs, and through its observation of the Congressional debate on the Clean Air Act, the Air Quality Division has assembled a basic framework for any new permitting procedure which should be established in rules to ensure enforcement. This framework includes:

(1) Identification and estimation of the emission rate of each noncriteria air pollutant at each emission point.

(2) Comparison of the predicted emission rate to the Significant Emission Rate for each substance.

(3) Determination of appropriate control technology.

(4) Dispersion modeling to determine the maximum ambient air concentration.

(5) Comparison of the maximum concentration to some Ambient Concentration Guideline (ACG).

(6) Demonstration, through a more comprehensive analysis, that emissions will not cause or contribute to the endangerment of public health, welfare, or the environment by the applicant if an ACG is exceeded and no additional control is practicable.

In the long run the Division anticipates integrating control of toxic air pollutants into our existing activities through rulemaking. Source permitting will be carried out with additional review directed at toxic chemicals. The Emission Inventory will be expanded to include a much larger list of substances. In addition, the Department's statewide Ambient Monitoring Network will be expanded to include sample collection and analysis for a wider range of toxic chemicals so that program effectiveness can be adequately assessed.

Several possible funding sources are being considered to obtain the resources needed for these expanded activities. An increase in EPA 105 grant funds or an increase in air contaminant discharge permit fees are two traditional options. Effluent fees, either under the Clean Air Act or new State legislation, represent an innovative new approach to provide both incentives for emission reduction and funds for program operation. One intriguing possibility with an emission fee system would be to make the fee schedule dependent on the relative toxicity of the pollutant. This could serve as an incentive to useless toxic compounds.

The Air Quality Division also anticipates that it will continue to be called upon to provide its perspective and expertise as other programs within the Department are developed to control and reduce the release of toxic chemicals.

Schedule

For some time the Air Quality Division has been laying the foundation for adoption of a formal toxic air pollutant control program and had planned to bring it before the Commission before now. However, a number of events and circumstances have given reason to delay. One major reason for purposely slowing the process at this time is the likelihood that the Clean Air Act will

soon be reauthorized. It now includes an important new approach to toxic air pollutant control.

Although the House and Senate versions have their differences, the basic approach is essentially the same. Both establish a list of source categories which emit about 200 listed chemicals. EPA would be required to prioritize the source categories and promulgate emission control standards for each category. After controls are in place a residual risk assessment would be done to determine if the public is adequately protected and additional mitigation measures required if necessary. Significant differences in the details of the two versions, eg. the level of control required and the acceptable risk level, make it difficult to predict what the final law will include.

The permitting procedure framework now being considered by the Department is very similar to the one being debated by Congress. It seems prudent to wait to integrate features of the reauthorized Clean Air Act into the Oregon program, as long as Congress continues to move toward passage, but the Department is prepared to proceed on its own if that process slows.

Meetings with an Advisory Committee are planned to begin early this summer, and permitting rules are expected to be ready to propose to the Commission late in the fall. One certain result of this delay is that the Department will be bringing rules which will apply to both new and existing sources, rather than dealing with these two groups in two phases. One possible result may be that area and mobile sources will be addressed in some way as well.

Policy Issues

When the Department returns with a package of permitting rules there will be a number of key issues for the Commission to consider.

* **Regulated Pollutants**

The list of pollutants regulated varies greatly from State to State and from environmental program to program. While over 50,000 substances have been identified as hazardous chemicals requiring Material Safety Data Sheets according to Federal Hazard Communication standards, the new Clean Air Act proposes a list of about 200 substances. The Section 313, which is being used by several programs covers about 300 chemicals and chemical categories. The Air Quality Division is currently working with a list of about 800 chemicals (but has considered others as well) in its review of new source permits. The Air Quality Division list was derived primarily from the occupational health literature.

* **Regulated Sources**

At present the Division is only informally reviewing potential toxic air pollutant impacts on permits for major new sources and major modifications of existing sources. The rule package will include provisions for permitting other existing sources, probably with some order of priority and some form of compliance schedule. These priorities and schedules may not reflect those established on a national level because Oregon's mix of air pollution sources is quite different than the national average. Since area and mobile sources are important contributors to the problem in Oregon they should also be addressed to the extent possible.

The issue of exemptions has been an important consideration in every state which has adopted rules. De minimis limits or other size criteria are common, while in some states certain types of sources, for example combustion sources, are exempted.

* **Control Approach**

Two distinct avenues have been taken by other States trying to reduce toxic air emissions, one technology based the other risk based. In the former, requirements are placed on an industrial facility to use certain types of emission control equipment or to operate in certain ways. More recently this has also included requirements to minimize the use of toxic chemicals. The latter approach requires that emissions be reduced to achieve a specified ambient concentration; the ambient standard generally being based on human health effects such as cancer risk. Both approaches have their strong and weak points.

A hybrid of the two is embodied in the current Clean Air Act proposals and reflects the direction that many States have been recently taking with their programs. This is also the approach the Department contemplates. The advantage of a comprehensive approach is that there is a certainty of emission reductions through across the board application of best available technology, as well as site-specific protection afforded by modeling and residual risk assessment.

Related to the above point is the question of determining what level of risk, or probability of health impact, is acceptable. For carcinogens it is becoming common to set a one in one million (10^{-6}) risk as the goal. Where this goal is unattainable through application of best available technology some consensus is developing for making one in ten thousand (10^{-4}) the "bright line" of ultimate unacceptability. The Department believes that this latter risk level is the appropriate choice for new or modified sources. The approach for regulating existing sources which cannot meet the 10^{-4} risk level with existing control will need to be identified.

Conclusion

It has been no surprise to discover that toxic chemicals are being released to the air. The Commission is well aware of the magnitude of toxic chemical use and the potential impact of their release to other media. The problems these chemicals create are much the same whether they enter the air, water, or soil. In fact, toxic chemicals released to one media often lead to contamination of another, and in some cases our regulatory programs have purposefully moved contaminants from one medium to another.

As regulations are developed to control releases to other parts of the environment more chemicals are finding their way into the air where they are perceived to disappear. It is not appropriate to make one media the dumping ground for hazardous substances. A formal regulatory program is needed in Oregon to address the problem of toxic air pollutants. Rules to implement such a program will be brought to the Commission for consideration in the late fall.

The Commission has adopted policies and rules to cleanup existing toxic contamination of water and land, to control the ongoing release of toxic chemicals, and to prevent future releases through toxic use reduction and waste minimization. Ultimately what the Commission and the Department should be working toward is a comprehensive system which will minimize the use and release of toxic chemicals. Where releases must occur, we must determine how best to manage them so that public health and the environment are adequately protected.

FIGURE 1 - TOXIC AIR POLLUTANT EMISSIONS RANKED BY CHEMICAL (1987 OREGON TAP EMISSION INVENTORY)

POLLUTANT	CAS NO.	EMISSIONS LBS/YR
ACETALDEHYDE	75-07-0	17138577
TOLUENE	108-88-3	10803794
FORMALDEHYDE	50-00-0	6648570
PESTICIDES	SEQ00	6000000
PHENOL	108-95-2	3318518
BENZENE	71-43-2	3023998
LEAD AND COMPOUNDS	7439-92-1	2256967
XYLENE	1330-20-7	1961880
MANGANESE AND COMPOUNDS	7439-96-5	1658432
METHYL CHLOROFORM/1,1,1-TRICHLOROETHANE	71-55-6	1612172
PERCHLOROETHYLENE/TETRACHLOROETHYLENE	127-18-4	1529666
TRICHLOROETHYLENE	79-01-6	1022416
PARTICULATE POLYCYCLIC AROMATIC HYDROCARBONS/PPAH	SEQ-6	722627
CHLOROFORM/TRICHLOROMETHANE	67-66-3	679744
METHYLENE CHLORIDE/DICHLOROMETHANE	75-09-2	497311
NICKEL AND COMPOUNDS	7440-02-0	44202
NICOTINE	54-11-5	37691
BENZO (A) PYRENE/3,4-BENZOPYRENE/BAP	50-32-8	28221
PENTACHLOROPHENOL	87-86-5	15819
MERCURY AND COMPOUNDS	7439-97-6	13533
VINYLIDENE CHLORIDE/1,1-DICHLOROETHYLENE	75-35-4	13083
EPICHLOROHYDRIN	106-89-8	12290
CHROMIUM AND COMPOUNDS (HEXAVALENT)	7440-47-3	10136
VINYL TRICHLORIDE/1,2-TRICHLOROETHANE	79-00-5	7507
ARSENIC AND COMPOUNDS	7740-38-2	2223
METHYL BROMIDE	74-83-9	1492
PHOSGENE	75-44-5	1000
ARAMITE	140-57-8	719
PROPYLENE OXIDE/1,2-EPOXYPROPANE	75-56-9	376
DICHLOROBENZENE	25321-22-6	313
CADIUM AND COMPOUNDS	7440-43-9	273
2,4-DICHLOROPHENOXY ACETIC ACID/2,4-D	94-75-7	181
2-NITROPROPANE	79-46-0	177
CRESOLA/O,M,P-CRESOL/CRESYLIC ACID	1319-77-3	120
BERYLLIUM AND COMPOUNDS	7440-41-7	91
DIOXINS	SEQ-128	59
METHOXYCHLOR	72-43-5	35
DI (2-ETHYL HEXYL PHTHALATE)	117-81-7	32
ANTIMONY AND COMPOUNDS	7740-36-0	31
CFC 113	76-13-1	30
METHYL CHLORIDE	74-87-3	30
TETRACHLOROETHANE/1,1,2,2-TETRACHLOROETHANE	79-34-5	29
ETHYLENE DICHLORIDE/1,2-DICHLOROETHANE	107-06-2	14
CARBARYL	63-25-2	12

FIGURE 2 - TOXIC AIR POLLUTANT EMISSIONS RANKED BY SOURCE
(1987 OREGON TAP EMISSION INVENTORY)

ID NO.	SOURCE	POLLUTANT	EMISSIONS LB/YEAR
9990	SLASH BURNING	ACETALDEHYDE	14224758
9990	PESTICIDES APPLICATION	PESTICIDES	6000000
9990	MOTOR VEHICLES-GASOLINE	FORMALDEHYDE	4519048
9990	MOTOR VEHICLES-GASOLINE	TOLUENE	3349932
9990	RESIDENTIAL SPACE HEATING	PHENOL	3313040
2777	CROWN ZELLERBACH	TOLUENE	2590000
9990	MOTOR VEHICLES-GASOLINE	LEAD AND COMPOUNDS	2242272
9990	ARCHITECTURAL COATINGS	TOLUENE	1971606
9990	RESIDENTIAL SPACE HEATING	FORMALDEHYDE	1803227
9990	RESIDENTIAL SPACE HEATING	MANGANESE AND COMPOUNDS	1656516
9990	MOTOR VEHICLES-GASOLINE	BENZENE	1541120
9990	DEGREASERS (COLD)	METHYL CHLOROFORM/1,1,1-TRICHLOROETHANE	1390073
9990	WILD FIRES	ACETALDEHYDE	1315240
9990	SURFACE COATING	BENZENE	1291763
9990	DRY CLEANING	PERCHLOROETHYLENE/TETRACHLOROETHYLENE	1182832
9990	SURFACE COATING	TOLLENE	952136
9990	RESIDENTIAL SPACE HEATING	ACETALDEHYDE	898579
9990	MOTOR VEHICLES-GASOLINE	XYLENE	867792
9990	RESIDENTIAL SPACE HEATING	PARTICULATE POLYCYCLIC AROMATIC HYDROCARBONS/PPAH	697601
2515	EVANS PRODUCTS BAP	TRICHLOROETHYLENE	631403

FIGURE 3 - PORTLAND'S MOST COMMON TOXIC AIR POLLUTANTS
(1988-89 PORTLAND AMBIENT AIR MONITORING STUDY)

COMPOUND	CASES	CONCENTRATION ($\mu g/m^3$) MIN.[a]	MAX.	MEAN[b]
FORMALDEHYDE	27	1.1	5.2	2.3
ACETALDEHYDE	26	1.2	4.8	2.1
ACROLEIN	15	0.050	0.525	0.090
1,1,1-TRICHLOROETHANE	12	0.5	9.6	1.2
1,2-DICHLOROETHANE	17	1.8	19.7	4.2
BENZENE	26	0.2	9.2	2.7
TOLUENE	30	2.7	25.0	8.8
CHLOROBENZENE	10	0.1	6.4	0.8
ETHYLBENZENE	11	0.6	8.0	1.0
m,p-XYLENE	28	0.6	74.4	17.2
STYRENE/o-XYLENE	22	0.2	15.5	2.8

[a] The lowest concentration measured which is above the Minimum Detection Limit (MDL)

[b] MDL/2 was assumed for the calculation of the Mean when the species was undetected

FIGURE 4 - PORTLAND'S TOXIC AIR POLLUTANT RISK (1988-89 PORTLAND AMBIENT AIR MONITORING STUDY)

COMPOUND	ANNUAL AVERAGE ($\mu g/m^3$)	UNIT RISK VALUE ($\mu g/m^3$)-1	MEI RISK
FORMALDEHYDE	2.3	1.3E-05	3.0E-05
ACETALDEHYDE	2.1	2.2E-06	4.7E-06
ACROLEIN	0.090		
1,3-BUTADIENE	0.4	2.8E-04	1.1E-04
t-1,2-DICHLOROEHTYLENE	1.1		
CHLOROPRENE	0.2		
CHLOROFORM	0.1	2.3E-05	3.4E-06
1,1,1-TRICHLOROETHANE	1.2		
1,2-DICHLOROETHANE	4.2	2.6E-05	1.1E-04
BENZENE	2.7	8.3E-06	2.2E-05
TRICHLOROETHYLENE	0.1	1.7E-06	2.1E-07
1,2-DICHLOROPROPANE	0.5		
t-1,3-DICHLOROPROPYLENE	0.3		
TOLUENE	8.8		
n-OCTANE	0.5		
TETRACHLOROETHYLENE	0.3	9.5E-07	2.4E-07
CHLOROBENZENE	0.8		
ETHYLBENZENE	1.0		
m/p-XYLENE	17.2		
STYRENE/o-XYLENE	2.8	5.7E-07*	1.6E-06
m-DICHLOROBENZENE	0.3		
p-DICHLOROBENZENE	59.9**		
o-DICHLOROBENZENE	0.5		
		TOTAL RISK	2.8E-04

* Unit Risk Value is for Styrene

** Mean value represents only 6 days when this compound was detected. One day 1857 $\mu g/m^3$ were measured. This value is likely an outlier, but there is insufficient data at this time to make that determination.

PLAN\AH6061

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY INTEROFFICE MEMORANDUM

DATE: May 7, 1990

TO: Environmental Quality Commission

FROM: Peter Dalke, Administrator
Management Services Division

SUBJECT: 1991-93 Budget Update

The following is the outline of a 20-minute presentation scheduled for your May 24, 1990 Work Session Item #3:

DEQ 1991-93 Budget

I. 1991-93 Budget Development and Review Process

A. Budget Due to the Executive Department by Aug. 28

B. Governor's Office Review and Recommendations by January, 1991

C. Legislative Joint Ways & Means Committee Review 1991 Session

II. Resources in Budget Request

A. Base Budget

B. Decision Packages

1. Base Enhancement Packages

2. New Program Initiative Packages

III. Funding

A. Anticipated Revenue Increases to Support Base Budget and Decision Packages

IV. Summary of Budget Requests Related to The Legislative Proposals

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State of Oregon
Department of Environmental Quality

Memorandum

Date: March 22, 1990

To: Environmental Quality Commission

From: Fred Hansen

Subject: Agenda Item 4; April 5, 1990, Work Session.
Strategic Plan: Schedule for Future Actions

At the March 1, 1990, Work Session in Pendleton, the Department provided the Commission with copies of the attached draft memorandum to Division Administrators which establishes an approach and schedule for development of "operating plans" and "performance indicators." Since there was not time to review the material at the meeting, this item has been placed on the April 5 Work Session to provide opportunity for discussion.

The present schedule for actions related to the Strategic Plan is summarized as follows:

April 11, 1990 Written comments on the draft Strategic Plan are due. Public Notice and copies of the plan were mailed to those on the EQC mailing list on March 12 and 13. A press release has also been issued notifying of the availability of the draft plan for review.

May 24, 1990 The Commission will discuss the comments received and the Department's evaluation at the regularly scheduled work session, and will make any final modifications to the plan.

May 31, 1990 Each Division will complete a draft display of high priority objectives, projects and tasks. These will be reviewed by Division Administrators on June 4, 1990. (See attached Memo to Division Administrators for more details on the proposed approach.)

June 28-29, 1990 The high priority objectives, projects, and tasks for the Department for the remainder of this biennium will be reviewed by the Commission.

Quarterly Thereafter The Department will report to the Commission on the status of the priority objectives, projects, and tasks.

DRAFT

State of Oregon
Department of Environmental Quality

Memorandum

Date: February 28, 1990

To: Division Administrators

From: Fred Hansen

Subject: **Division Operating Plans** and **Performance Indicators**

The next steps we have identified in the Strategic Planning process are:

- Display of **Division Operating Plans** in relation to the Strategic Plan.
- Development of **Performance Indicators** for the Agency Programs.

Following are the assumptions and approach we will use for these next steps.

Division Operating Plans

ASSUMPTIONS

1. The primary immediate purpose of the Strategic Plan is to establish direction for legislative concept and budget development for the 1991-1993 Biennium.

2. The work program of the Department for the current biennium (1989-1991) is essentially fixed by prior budget approval, federal requirements, etc. The ability to adjust to pursue new or significantly modified initiatives of the Strategic Plan is limited.

3. The Department can fairly rapidly complete a display of high priority projects and tasks that are on-going or planned during the 1989-1991 biennium, and identify how these projects and tasks can be related to Strategic Plan goals and priorities.

APPROACH

- Each Division will display their high priority objectives, projects, and tasks on the attached tabular display form in accordance with the following schedule:

    a. Complete a draft by **May 31, 1990**, for review by Division Administrators on **June 4, 1990.**

    b. Forward final document to EQC on **June 15, 1990**, along with the material package for the **June 29, 1990**, meeting.

This display of high priority objectives, projects, and tasks will not identify everything the Department is working on. It will focus on the "critical few" priorities for each Division and for the Agency. Each Division Administrator will be expected to report to the Director on the status of these priorities monthly. The Department will report Quarterly to the Commission on the status of these priorities.

- Each Division will develop an initial Division Operating Plan for the 1991-93 biennium, consistent with the approved budget, by **August 1, 1991.** It is expected that this operating plan will provide the basis for the Division Administrator to track and report on the work of each section within their division. A consistent, simple format for these more detailed operating plans will be agreed upon prior to that time.

Performance Indicators

ASSUMPTIONS

1. As part of the budget development process for the 1991-93 budget, the Department is required to submit a description of proposed workload and performance measures to the Budget and Management Division by April 2, 1990.

2. Development of meaningful long term performance indicators and the data base to support periodic reporting is a difficult task that will take more time than is allowed under the current budget schedule. Therefore, this process will require identification of "initial" indicators, followed by a process to refine them over time.

APPROACH

- Identify initial performance indicators by **April 2, 1990**, for the budget process.

- By **July 1, 1991**, select initial long term performance indicators, and begin reporting on a quarterly basis. In the interim, report to the EQC quarterly on the status of significant tasks as noted above.

DRAFT

Department of Environmental Quality

_____ Division Operating Plan

Priority Objectives related to Strategic Plan
July 1, 1990 - June 30, 1991

Priority Objectives	Significant Tasks	Responsible Unit	Target Date	Notes
a. Develop Health & Safety Plan (Goal 7) (All Program High Priority 6)	Develop Draft	Health & Safety Manager as lead with Interdivisional Task Force Asistance	July 1, 1990	
	Review and Finalize Draft	Division Administrators and Director	August 1, 1990	
	Develop Implementation Strategy	Health & Safety Manager and Task Force	Sept. 1, 1990	
	Adopt Implementation Strategy and Begin Implementation	Division Administrators and Director	October 1, 1990	

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Approved ____
Approved with corrections ____
Corrections made ____

MINUTES ARE NOT FINAL UNTIL APPROVED BY THE EQC

ENVIRONMENTAL QUALITY COMMISSION

Minutes of the Two Hundred and Third Meeting
April 17, 1990

Work Session and Regular Meeting

The Environmental Quality Commission (Commission, EQC) Work Session and Regular Meeting was convened at 8:05 a.m. in Room 3A of the Department of Environmental Quality (Department, DEQ) offices at 811 S. W. Sixth Avenue in Portland, Oregon. Commission members present were: Chairman Bill Hutchison, Vice Chairman Emery Castle, and Commissioners Bill Wessinger, Genevieve Sage and Henry Lorenzen. Also present were Michael Huston of the Attorney General's Office, Director Fred Hansen of the Department of Environmental Quality and Department staff.

This meeting was rescheduled from April 5-6, 1990, when unanticipated problems prevented a quorum being present. The April 5-6 agenda was re-ordered to fit into a one day meeting, beginning with a work session at 8:00 a.m., followed by the regular meeting at 10:00 a.m., and a reconvened work session following the regular meeting subject to available time. Agenda items continued to display the original April 5-6 date and item designation.

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

Work Session

Chairman Hutchison convened the Work Session at about 8:05 a.m.

Item 1: Legislative Concepts: General Discussion

Prior to the meeting, draft legislative proposals had been forwarded to the Commission for review. **John Loewy**, Assistant to the Director, introduced the discussion by reviewing the schedule established by the Governor's office for agency submittal of legislative proposals. The schedule requires agencies to submit proposals together with fiscal impact statements for each proposal by May 1, 1990.

Nick Nikkila, Air Quality Division Administrator, briefed the Commission on the air quality proposals and responded to questions. **Lydia Taylor**, Water Quality Division Administrator, briefed the Commission on water quality proposals and responded to questions. **Stephanie Hallock**, Hazardous and Solid Waste Division Administrator, briefed the Commission on hazardous waste and solid waste program proposals and responded to questions. **Michael Downs**, Environmental Cleanup Division Administrator, briefed the Commission on environmental cleanup program proposals and responded to questions.

The Chairman recessed the work session shortly after 10:00 a.m., to be reconvened after the regular meeting.

Regular Meeting

The regular meeting was called to order by Chairman Hutchison at about 10:15 a.m. People wishing to testify on any item were asked to fill out a witness registration sheet. The Commission then proceeded through the published agenda.

CONSENT ITEMS

Agenda Item A: Minutes of the March 1-2, 1990 EQC meeting

It was MOVED by **Commissioner Sage** that the minutes of the March 1-2, 1990 meeting be approved. The motion was seconded by **Commissioner Castle** and passed unanimously.

Agenda Item B: Approval of Tax Credit Applications

The Department presented recommendations that ten applications for tax credit be approved as follows:

T-2543	Merritt Truax;, Inc.	Spill Containment Devices with drains; manholes with recovery vessels for 5 tanks.
T-2557	Metrofueling, Inc.	Spill Containment Devices with drains; manholes with recovery vessels for 5 tanks.

T-2558	Metrofueling, Inc.	Spill Containment Devices with drains; manholes with recovery vessels for 3 tanks.
T-2560	Metrofueling, Inc.	Spill Containment Devices with drains; manholes with recovery vessels for 5 tanks.
T-2572	Pride of Oregon	Spill Containment Devices with drains; manholes with recovery vessels for 5 tanks.
T-2687	Metrofueling, Inc.	Spill Containment Devices with drains; manholes with recovery vessels for 4 tanks.
T-2697	Copeland Paving, Inc.	Replacement of 2 steel tanks; leak detection system and spill and overfill containment system; and monitoring wells.
T-2717	Arthur H. Clough, Chevron Station	Leak Detection System.
T-2898	Brewed Hot Coffee Service	Tank lining system; overfill prevention system; manhole and riser.
T-3101	Burl J. & Josephine Eastman	Tiling installation on 40 acres.

Nine of the ten applications were for underground storage tank upgrade facilities. Since these were the first of a large number of applications to come, the Department included a memorandum as an attachment to the staff report that provided background information on several issues of eligibility and requested Commission concurrence on Department interpretations of eligibility. Some of the options for upgrade of underground tank installations to meet groundwater protection concerns can have other benefits for the facility owner. The Department evaluated the potential benefits, and developed the interpretations to guide determinations of cost of the eligible facility and the percent of cost allocable to pollution control. The Department recommendations on applications presented for approval were consistent with the interpretations presented in the memorandum.

The Commission generally agreed with the interpretations in the memorandum. It was noted that applicants can present information to support a different interpretation if they feel their particular circumstances are different or unique, and that the Commission could approve such applications.

It was MOVED by Commissioner Castle that the tax credit applications be approved as recommended by the Department. The motion was seconded by **Commissioner Lorenzen** and unanimously approved.

Hearing Authorizations

Agenda Item I: Chlorofluorocarbons (CFCs) and Halons: Proposed New Rules to Establish Finding That Equipment for Recycling CFCs in Automobile Air Conditioners is Available and Affordable

This agenda item recommended that the Commission authorize a public hearing on proposed rules to implement and enforce ORS 468.612-621 for the reduction and recycling of certain chlorofluorocarbons as presented in Attachment A of the staff report. The proposed rules would establish standards for automobile air conditioner coolant recovery and recycling equipment, and define the Civil Penalty Matrix and Class of any violation of CFC statutes or rules. The proposed hearing would also gather public comment on the determination of the availability and affordability of recovery and recycling equipment. The statute requires the Commission to make a finding of availability and affordability concurrent with adoption of the rules.

Commissioner Lorenzen asked if the Department had considered a regional approach to the availability and affordability determination to deal with areas of the state with sparse population where the volume of business would not be sufficient to pay for the equipment that could be easily affordable for a larger installation. Nick Nikkila responded that the Department was concerned about the issue, and wanted to get input through the public hearing process in both eastern and western Oregon. The Commission indicated their desire to further consider this issue when the matter comes back to them for adoption of findings and the rules.

It was MOVED by **Commissioner Wessinger** that the Department recommendation be approved. The motion was seconded by Commissioner Sage, and unanimously approved.

Agenda Item J: Used Oil/Road Oiling: Proposed Rules (SB 166)

This agenda item recommended that the Commission authorize a public hearing on proposed rules to set standards for the use of used oil for dust suppression, as an herbicide, or for other direct uses in the environment as presented in Attachment A of the staff report. The proposed rules would implement SB 166 passed by the 1989 legislature. Federal rules previously adopted by reference by the Commission prohibit the use of used oil for dust control or road treatment if the used oil has been contaminated with dioxin or any other hazardous waste (other than a waste identified solely on the basis of ignitability). The proposed rules go further than federal rules by setting specific standards and testing requirements for used oil. The proposed rules also amend existing enforcement rules to establish classes for violations of the rules.

Peter Spendelow, Hazardous and Solid Waste Division, discussed the effects that the new Environmental Protection Agency rules promulgated March 29, 1990 on the Toxicity Characteristic Leaching Procedure (TCLP) would have on road oiling. Almost all used oil contains sufficient quantities of benzene and other toxic organic molecules to be regulated as a hazardous waste under the TCLP rules, and thus would be prohibited from use for dust control. The Department intends to put forward amendments to the used oil rules proposed in Item J during the hearing process to add standards for those toxic organic molecules identified under the TCLP rules that are common constituents of used oil, and thus address the provisions of the new federal rules.

It was MOVED by Commissioner Wessinger that the Department recommendation be approved. The motion was seconded by Commissioner Sage and unanimously approved.

Agenda Item K: Waste Reduction: Proposed Rules for Waste Reduction Plans (SB 855)

This agenda item recommended that the Commission authorize a public hearing on proposed rules presented in Attachment A of the staff report which would set criteria for approval of solid waste reduction programs required under ORS 459.055, as amended by SB 855 adopted by the 1989 legislature.

The proposed rules set standards for waste reduction programs required for jurisdictions sending more than 75,000 tons of waste to a landfill established after 1979 as a conditional use in an exclusive farm use zone. Peter Spendelow pointed out that the existing rules on this subject address the process of developing a waste reduction program, while the new proposed rules address the requirements for the program itself.

It was MOVED by Commissioner Castle that the Department recommendation be approved. The motion was seconded by Commissioner Lorenzen and unanimously approved.

PUBLIC FORUM

John Krieg, Wren Hedine, and **Lisa Montgomery**, members of the Youth Commission from the Fish and Wildlife Department made a special appearance before the Commission to present an overview of their efforts and their recommendations regarding environmental quality.

The Youth Commission was formed in December 1989. It consists of 24 members selected from high schools around the state. The members were required to attend meetings and field activities, and then met to discuss their experiences and prepare a report of their concerns and recommendations.

Slides were shown about the field activities of the Youth Commission. Specific recommendations relating to environmental quality included the following:

- Greater emphasis on pollution prevention.
- More testing of products prior to marketing to avoid the need for recall.
- Require responsible parties to pay for cleanups.
- Higher fines for pollution violators.
- Increased education on the effects of pollution.
- A switch to alternative products that are recyclable.
- Higher water quality standards.
- Mandatory recycling for state agencies.
- Reduced garbage rates for people who recycle.
- Awards for environmentally responsible industries.
- Expand the Bottle Bill.
- Increase Public Involvement.

In response to a question from Chairman Hutchison, one Youth Commission representative indicated that prior to the Youth Commission experience, they were not that aware of what DEQ did, and generally believed that "... DEQ was not on our side."

The Commission thanked the Youth Commission for their efforts, presentation, and recommendations.

Dale Sherborne and **John Pointer**, representing Concerned Citizens for Wastewater Management, asked for a full investigation of DEQ because they believe the Director and the Department have not listened to their charges, answered their questions, or taken appropriate actions regarding violations of permit requirements and rules by the City of Portland. They indicated they had appeared before the Commission multiple times and still had not had their basic questions answered. They asked that their questions be fully addressed during the meeting so they would not have to come back.

Chairman Hutchison stated that the Department has put a lot of energy in to trying to respond to the questions they have submitted. He advised Mr. Pointer that the time allotted for their presentation had been fully used. Upon being interrupted by Mr. Pointer, Chairman Hutchison stated that it was not possible to deal with this matter in the public forum, advised Mr. Pointer to take whatever action he felt he needed to take to resolve his concerns to his satisfaction, and asked him to leave the table.

Gary Newkirk, owner of a home in the Twin Rocks Sanitary District, appeared regarding continuing problems of sewage spills from the Twin Rocks sewer system onto his property. He stated that DEQ has refused to take enforcement action against Twin Rocks for failure to report sewerage spills. He presented documentation of unreported spills on several separate occasions. He asked that his documentation be reviewed. He noted that he had filed a lawsuit against the District. The lawsuit was finally resolved, but the district has not responded.

Mary Halliburton, Water Quality Division, noted that staff did provide testimony during the lawsuit. Twin Rocks submitted plans for a pump station to be installed on Mr. Newkirk's property. Staff has approved those plans. After installation of the pump station, an overflow from a nearby manhole did occur and was investigated by staff. The Department is pursuing conditions regarding operation and maintenance of the collection system as part of the review of the permit renewal application submitted by Twin Rocks Sanitary District. The Department is attempting to include requirements imposed by the court into the permit where appropriate. The Department does not have authority to regulate sewage backups into private property; therefore, property owners must address such matters through private action. The Department does urge system owners to take actions to prevent such backups. Mr. Newkirk noted that DEQ staff has not contacted him in conjunction with any investigation of spills. He concluded by asserting that DEQ is negligent for failing to act, and that goals should be changed to enforce restoration and repairs of sewerage systems that DEQ has required be built.

Commissioner Sage suggested that the Commission need to further discuss the issue of "recourse" in conjunction with the work session discussion on public input. Chairman

Hutchison asked staff to come back on the issue of whether the problem under discussion is a system failure problem as opposed to a single property owner problem.

Harry Demaray, advised the Commission that he had been "summarily fired" from his position as a DEQ employee, and that he had previously appealed actions of the Director to the Supreme Court. He asked the Commission to intercede on his behalf, remove the individuals responsible, and reinstate him as an employee of the Department. Commissioner Castle asked if the matter was before the Employee Relations Board (ERB). Mr. Demaray indicated it was, but his past experience on two occasions suggested to him that ERB review was a waste of time.

Chris Bowles, representing the Unified Sewerage Agency, noted that the Commission adopted rules for the Tualatin Basin for permanent onsite stormwater quality facilities. Those rules are to go into effect in June. At the December meeting, the Commission requested that the matter of the start date be brought back in April for possible modification. The matter is not on the agenda, and it is important to the jurisdictions in Washington County that the start date be moved back to July. The Commission decided to consider the matter further in relation to Agenda Item L later in the meeting.

ACTION ITEMS

Agenda Item D: Portland Airport Noise Abatement Plan: Request for Extension to October 1, 1990 for Submittal of Update

This agenda item recommends that the Commission approve a request submitted by the Port of Portland (Port) for an extension to October 19, 1990 for submittal of an updated Noise Abatement Plan for the Portland International Airport. The extension would allow the neighborhood representatives, the airline industry, the Department, the Port, and other interested parties, additional time to cooperatively develop the best possible program. The Department indicated that granting the requested additional time to complete evaluations of possible changes in flight patterns, operational procedures, and other pertinent issues being addressed by the Port through the Noise Abatement Advisory Committee is in the public's best interest.

It was MOVED by Commissioner Wessinger that the Department Recommendation be approved. The motion was seconded by Commissioner Castle, and unanimously approved.

Agenda Item E: Waste Tire Pile Cleanup: Approval of Funds from Waste Tire Recycling Account to Assist Union County

This agenda item recommends that the Commission approve the use of funds from the Waste Tire Recycling Account to assist Union County to expedite cleanup of approximately 65,000 waste tires at a permitted waste tire storage site. Under the program as proposed, Union County would arrange for the cleanup (which is estimated to cost $98,700), the Department would inspect and approve the cleanup operation, and then pay for 80% of the net cost from the Waste Tire Recycling Account.

During discussion of the item, Commissioner Wessinger asked if such approvals for funds could be delegated to the Director. The Department agreed to investigate the possibility of delegation.

It was MOVED by Commissioner Castle that the Department Recommendation be approved. The motion was seconded by Commissioner Wessinger and unanimously approved.

The meeting was recessed for lunch, and then reconvened.

RULE ADOPTIONS

Agenda Item F: Air Quality Fees: Proposed Adoption of Permit Fee Modifications

This agenda item recommended that the Commission adopt proposed rule amendments as presented in Attachments A1 and A2 of the staff report. The rule amendments impose a one time surcharge on compliance determination fees for Air Contaminant Discharge Permits and impose filing and application processing fees for Indirect Source Construction Permits. The air quality program has a projected funding deficit resulting because federal funds and fees have not increased to cover increased program costs. The fee increase and new fees recommended provide adequate revenue to fund an effective industrial source control program for the remainder of the biennium. Some portions of the air quality program will be operated at a reduced level in order to eliminate the remainder of the projected deficit.

Nick Nikkila and **Wendy Sims** presented information and responded to questions on the proposal. Two categories of permits are affected. New permanent fees were proposed on applications for Indirect Source Construction Permits. For industrial source Air Contaminant Discharge Permits, a one-time increase in the Annual Compliance Determination Fee was proposed. The increase is 88% for sources on regular permits and 20% for sources on minimal source permits. The fee increases are projected to

generate $15,000 and $280,000 respectively in increased revenue for the current biennium. They noted that public testimony was supportive of the fee increase.

Commissioner Castle expressed support for an alternative to adopt emission-based fees. He acknowledged that this alternative is not possible at this time, however.

It was MOVED by Commissioner Wessinger that the Department Recommendation be approved. The motion was seconded by Commissioner Castle and unanimously approved.

Agenda Item G: Permanent Amendments to Rule for Financial Assurance for Solid Waste Sites

This agenda item recommends that the Commission adopt permanent rule amendments for Financial Assurance for Solid Waste Sites as presented in Attachment A of the staff report. The proposed rule amendments would allow the permit applicant for a new regional solid waste disposal facility to commence operation immediately after receiving DEQ approval of the applicant's financial plan. The previous rule required a three month waiting period. The proposed rule was adopted as a temporary rule by the Commission on December 1, 1989, and is now proposed to be adopted as a permanent rule.

It was MOVED by Commissioner Sage that the Department Recommendation be approved. The motion was seconded by Commissioner Wessinger and unanimously approved.

Agenda Item H: Solid Waste Fee Amendments

This agenda item recommended that the Commission adopt rule amendments that would add a 50 cent per ton disposal fee on domestic solid waste generated in Oregon beginning July 1, 1990, pursuant to the provision of HB 3515 passed by the 1989 Legislature. The proposed rule, which is presented in Attachment A of the staff report, establishes how the fee will be collected. Statute directs the revenues from the fee to be used for household hazardous waste collection activities, DEQ waste reduction programs, additional groundwater monitoring and enforcement, local government solid waste planning activities, grants to local governments for recycling, and DEQ administrative expenses in administering the uses of the fee. The proposed rules do not address issues related to use of the fee revenue.

Director Hansen explained the proposed fee amendments and noted that it would not apply to solid waste from out of state. Commissioner Lorenzen asked why the Commission couldn't adopt an emergency rule requiring the same fee on out of state waste. Director Hansen answered that the Legislature gave the Environmental Quality Commission the authority to levy a surcharge on out of state waste only after January 1991.

It was MOVED by Commissioner Castle that the Department Recommendation be approved. The motion was seconded by Commissioner Sage and unanimously approved.

INFORMATIONAL ITEMS

Agenda Item L: Tualatin Basin: Preliminary Evaluation of USA Program Plan, Stormwater Component

This agenda item presented preliminary observations on the stormwater component of the Unified Sewerage Agency (USA) plan for the Tualatin Basin. The USA plan is the first one being reviewed. Observations presented in the attachment to the staff report are preliminary. No recommendation for Commission action was presented at this time. **Roger Wood**, Water Quality Division, advised the Commission on the process for review that was underway.

Chris Bowles, representing USA, again raised the issue of the June 1 date in the Commission rule for requiring permanent on-site facilities for stormwater in connection with new construction. The date causes a burden to the jurisdictions because the effective date of the programs presented in their plans is July 1. The current rule would require the jurisdictions to adopt rules to meet the June 1 date that would be effective for only one month and would be replaced by the permanent plan rules on July 1. Therefore, they requested that, based on evidence that plans have been submitted and that the jurisdictions are moving forward, the June 1 date be modified.

Lori Faha, representing the City of Portland, expressed support for the request of USA.

Commissioner Castle noted that the Commission had committed to clarify this matter at the April meeting and should do so. He supported an extension of the June 1 date to July 1 as requested by the Jurisdictions. Director Hansen identified the options for the Commission as follows: (a) Amend the rule to change the date to July 1; (b) Direct the Department to use it discretionary authority to not take enforcement action on the June 1 date as long as the jurisdictions are proceeding on schedule. The rule could be changed immediately by Temporary Rule as long as the emergency findings could be articulated.

By consensus, the Commission expressed its support for the request of the jurisdictions and asked the Department to return at the May meeting with a proposed temporary rule to delay the June 1 date to July 1.

Leonard Stark, representing himself, provided written information to the Commission. He stressed that every organization and individual should pay their share of cost for cleaning up the Tualatin River.

Agenda Item C: Commission Member Reports

Chairman Hutchison noted that the Pacific Northwest Hazardous Waste Advisory Council is still on for June 4-5, 1990 in Portland. This should be the last meeting of the Council.

Commissioner Sage noted that the last meeting of the Governor's Watershed Enhancement Board (GWEB) was on April 12, 1990 in Roseburg. Issues discussed include structure, increased staffing, and budget for GWEB. She also commended Roger Wood for assisting in securing Clean Water Act Section 319 funds to assist in leveraging GWEB funding for projects.

There was no further business for the regular meeting, so it was adjourned. The Commission then reconvened the work session.

Work Session (Reconvened)

Item 1: (continued) Legislative Concepts: General Discussion

Tom Bispham, Regional Operations Division Administrator, briefed the Commission on enforcement enhancement legislative proposals and responded to questions. **Alan Hose**, Laboratory Division Administrator, briefed the Commission on the Laboratory Certification proposal and responded to questions.

The Commission then asked the Department to prepare a summary of the Department's understanding of the discussion and forward it to the Commission for review as soon as possible. For purposes of reflecting the discussions, a portion of the text of a memo forwarded to the Commission following the meeting is reproduced below:

> At the end of the Work Session presentation on legislative proposals a memorandum summarizing the status of the proposals was requested by the Commission. What follows is a

listing of the proposals in the Department's priority order. This priority listing represents the Chairman's comments at the Work Session as well as the best judgment of Department staff as to importance, practicality, and feasibility.

Two proposals have been dropped from the list completely. They are the phosphate ban and the proposal for the Columbia River. In both cases the Department is required to report to the legislature and legislative proposals are not necessary at this time.

1. COMPREHENSIVE AIR QUALITY FEE

While this proposal is the most difficult to design and probably the most problematic with regard to achieving passage, it is also the most forward looking and creative of the proposals. The kind of analysis which will be required to refine the proposal will be needed before and during the legislative session to react to the similar proposal presented by the Oregon Environmental Council and probably drafted as a bill by the legislative interim committee.

2. SOLID WASTE REDUCTION ENHANCEMENT

This proposal is being prepared with the advice of a broad-based advisory committee. It recognizes the need to move forward with a more aggressive solid waste reduction and recycling program in the state. While the focus now is on recycling goals and standards, the advisory committee will be considering other facets of waste reduction as well. Given the actions of the last legislature on our solid waste reduction bills, and the intense interest in the subject, it is incumbent upon us to go forward to the legislature with the best program we can devise. While not all of the work of the advisory committee may be ready to meet our legislative deadlines, its continuing work will be available for consideration during the session.

3. VOLUNTARY CLEANUPS

This is an innovative approach to addressing a critical problem faced by the agency and the regulated community; how to monitor and certify the voluntary cleanup of sites contaminated by hazardous materials to allow for property transfer and development.

4,5. HAZARDOUS WASTE DISPOSAL FEE INCREASE, ENFORCEMENT ENHANCEMENT

These proposals are all important extensions of authority, budgetary enhancement, or program improvements which are important to the affected programs and/or to the operations of the Department.

6. ASBESTOS INSPECTIONS OF PUBLIC ACCESS BUILDINGS

Asbestos is one of the most dangerous airborne pollutants. This proposal will provide the opportunity for a significant reduction in public exposure to asbestos. The provision in the proposal which clarifies questions of liability enhances our ability to take enforcement action and will have the additional effect of actually reducing our workload, enabling us to conduct more on-site inspections. EPA has agreed to provide funding to develop the public access building portion of the proposal and to support initial implementation if it is enacted.

7. WASTE TIRE PROGRAM EXTENSION

Legislation is needed to extend the $1.00 fee on purchase of new tires as will be recommended by the Waste Tire Advisory Committee along with program improvements.

8. ANALYTICAL LABORATORY CERTIFICATION

An important step toward assuring the quality of data which the Department uses to regulate. There may be ways short of new statutory authority to achieve this end.

9. SPILL CONTINGENCY PLANS FOR INDUSTRY

Based on legislation enacted in Washington State, this proposal will certainly be proposed by legislators, if not by DEQ.

10. FINANCIAL INCENTIVES FOR WOODSTOVES

Given our track record on woodstove pollution control legislation, this bill might better be offered by someone other than DEQ.

Item 2: Discussion of Options for Public Input

The Commission first discussed options for public input in relation to rule adoption agenda items at Commission meetings. The issue is one of assuring that people do not bypass the hearing process in favor of appearing before the Commission during the adoption process, and that the Commission is not unduly influenced by oral testimony received at the meeting.

Commissioner Lorenzen expressed a preference for a process that allows response on all issues after the public hearing but requires all testimony to be submitted in written form. Chairman Hutchison was not comfortable with requiring everything to be submitted in writing and suggested that Commission members could act as co-hearings officers at the public hearing and thereby place more emphasis for presenting all testimony at the hearing. Commissioner Sage indicated that testimony presented to the Commission at the adoption stage could be expression of a need for recourse rather than abuse of the system. Commissioner Castle expressed concern with the quality of the decision made by the Commission. He felt the need for debate between Commission members after testimony is received and before a decision is made. Commissioner Wessinger agreed with Commissioner Castle. Commissioner Sage noted that 11th hour oral testimony is not the most useful form for receiving information.

After further discussion, the Commission asked the Department to consider the discussion and return at the next meeting with a proposal or options that incorporate the concerns of the Commission to the greatest extent possible.

The Commission then discussed the matter of third party appeals. The Chairman thanked Michael Huston for his letter presenting options for their consideration. Commissioner Lorenzen expressed a preference for a process that would allow a third party to submit a petition for review to the Commission; with the Commission having the discretion to either accept the petition and cause a contested case hearing or reject the petition. Commissioner Castle expressed agreement with Commissioner Lorenzen.

Commissioner Sage raised the issue of the public forum period as an outlet for the public when they feel the need for recourse. There was no conclusion reached on this issue.

Item 3. Gold Mining: Background Discussion

Jerry Turnbaugh, Water Quality Division, presented a brief background discussion on the technology and environmental problems associated with mining and cyanide leaching of low grade ore to extract gold. The Department anticipates receiving one or more applications for large scale mining and leaching operations in Eastern Oregon, but has not yet received any such application. **Allen Throop**, representing the Department of Geology and Mineral Industries (DOGAMI), was present and responded to questions from the Commission. Mr. Throop indicated that the Department of Water Resources and the Department of Fish and Wildlife are also involved with DEQ and DOGAMI in a cooperative approach to issues related to mining activities.

Commissioner Lorenzen expressed concern about the impacts of large scale mining activities, and the need to evaluate the broader issues associated with mining and ore processing before any permit applications are filed. He indicated that clear guidance is needed. Commissioner Castle agreed and added that consideration must be given to beneficial uses.

Item 4. Strategic Plan: Schedule for Future Actions

The Commission acknowledged the schedule for future actions on the Strategic Plan as presented in the staff report.

Item 5. Oral Update Emergency Board Action on Columbia and Willamette Rivers

Krystyna Wolniakowski, Water Quality Division, advised that the Emergency Board has taken action to release the funding for the Columbia River Study contingent on the signing of the agreement by the parties.

Neil Mullane, Water Quality Division, advised that the Technical Committee that will be evaluating the Willamette Study Plan was being appointed, and will be meeting on Monday, April 23, 1990.

Director Hansen noted that a Dioxin Work Session is scheduled for June 13, 1990. Further details on the agenda and schedule are being developed.

There was no further business and the work session was adjourned at 3:50 p.m.

NEIL GOLDSCHMIDT
GOVERNOR

Environmental Quality Commission

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

REQUEST FOR EQC ACTION

Meeting Date: May 25, 1990
Agenda Item: A-2
Division: HSW
Section: UST Compliance

SUBJECT:

Pollution Control Tax Credits.

PURPOSE:

Approve Pollution Control Tax Credit Applications.

ACTION REQUESTED:

__ Work Session Discussion
- __ General Program Background
- __ Potential Strategy, Policy, or Rules
- __ Agenda Item __ for Current Meeting
- __ Other: (specify)

__ Authorize Rulemaking Hearing
__ Adopt Rules
- Proposed Rules — Attachment ___
- Rulemaking Statements — Attachment ___
- Fiscal and Economic Impact Statement — Attachment ___
- Public Notice — Attachment ___

__ Issue a Contested Case Order
__ Approve a Stipulated Order
__ Enter an Order
- Proposed Order — Attachment ___

_X_ Approve Department Recommendation
- __ Variance Request — Attachment ___
- __ Exception to Rule — Attachment ___
- __ Informational Report — Attachment ___
- X Other: (specify) — Attachment ___

Tax Credit Application Review Report
(See list on next page)

Tax Credit Application Review Reports:

TC-2350 Shirtcliff Oil Company	Replacement of bare steel tanks and piping with fiberglass tanks and piping; installation of line leak detectors, tank monitor, spill containment manholes, overspill prevention devices, monitoring wells
TC-2541 Merritt Truax, Inc.	Installation of spill containment manholes with overfill protection
TC-2542 Merritt Truax, Inc.	Installation of spill containment manholes with overfill protection
TC-2544 Merritt Truax, Inc.	Installation of spill containment manholes with overfill protection
TC-2545 Merritt Truax, Inc.	Installation of spill containment manholes with overfill protection
TC-2546 Merritt Truax, Inc.	Installation of spill containment manholes with overfill protection
TC-2547 Merritt Truax, Inc.	Installation of spill containment manholes with overfill protection
TC-2549 Metrofueling, Inc.	Installation of spill containment manholes with overfill protection
TC-2550 Metrofueling, Inc.	Installation of spill containment manholes with overfill protection
TC-2551 Metrofueling, Inc.	Installation of spill containment manholes with overfill protection
TC-2552 Metrofueling, Inc.	Installation of spill containment manholes with overfill protection
TC-2553 Metrofueling, Inc.	Installation of spill containment manholes with overfill protection
TC-2554 Metrofueling, Inc.	Installation of spill containment manholes with overfill protection
TC-2555 Metrofueling, Inc.	Installation of spill containment manholes with overfill protection

TC-2556 Metrofueling, Inc.	Installation of spill containment manholes with overfill protection
TC-2559 Metrofueling, Inc.	Installation of spill containment manholes with overfill protection
TC-2561 Metrofueling, Inc.	Installation of spill containment manholes with overfill protection
TC-2562 Metrofueling, Inc.	Installation of spill containment manholes with overfill protection
TC-2565 Truax Petroleum Sales, Inc.	Installation of spill containment manholes with overfill protection
TC-2566 Truax Petroleum Sales, Inc.	Installation of spill containment manholes with overfill protection
TC-2567 Truax Petroleum Sales, Inc.	Installation of spill containment manholes with overfill protection
TC-2568 Truax Petroleum Sales, Inc.	Installation of spill containment manholes with overfill protection
TC-2569 Pride of Oregon	Installation of spill containment manholes with overfill protection
TC-2570 Pride of Oregon	Installation of spill containment manholes with overfill protection
TC-2571 Pride of Oregon	Installation of spill containment manholes with overfill protection
TC-2573 Pride of Oregon	Installation of spill containment manholes with overfill protection
TC-2578 Harris Enterprises, Inc.	Installation of spill containment manholes with overfill protection
TC-2579 Harris Enterprises, Inc.	Installation of spill containment manholes with overfill protection
TC-2580 Harris Enterprises, Inc.	Installation of spill containment manholes with overfill protection
TC-2581 Harris Enterprises, Inc.	Installation of spill containment manholes with overfill protection
TC-2582 Harris Enterprises, Inc.	Installation of spill containment manholes with overfill protection

TC-2583 Harris Enterprises, Inc.	Installation of spill containment manholes with overfill protection
TC-2584 Harris Enterprises, Inc.	Installation of spill containment manholes with overfill protection
TC-2585 Harris Enterprises, Inc.	Installation of spill containment manholes with overfill protection
TC-2586 Harris Enterprises, Inc.	Installation of spill containment manholes with overfill protection
TC-2587 Harris Enterprises, Inc.	Installation of spill containment manholes with overfill protection
TC-2588 Harris Enterprises, Inc.	Installation of spill containment manholes with overfill protection
TC-2590 Harris Enterprises, Inc.	Installation of spill containment manholes with overfill protection
TC-2591 Harris Enterprises, Inc.	Installation of spill containment manholes with overfill protection
TC-2592 Harris Enterprises, Inc.	Installation of spill containment manholes with overfill protection
TC-2593 Harris Enterprises, Inc.	Installation of spill containment manholes with overfill protection
TC-2594 Harris Enterprises, Inc.	Installation of spill containment manholes with overfill protection
TC-2595 Harris Enterprises, Inc.	Installation of spill containment manholes with overfill protection
TC-2596 Harris Enterprises, Inc.	Installation of spill containment manholes with overfill protection
TC-2597 Harris Enterprises, Inc.	Installation of spill containment manholes with overfill protection
TC-2684 Van West Oil Company, Inc.	New installation of fiberglass tanks and piping; installation of spill containment manholes, overfill prevention devices, tank monitor, line leak detectors and monitoring wells

TC-2685 Van West Oil Company, Inc.	Replacement of steel tanks and piping with fiberglass tanks and piping; installation of spill containment manholes, overfill prevention devices, and tank monitor
TC-2765 Joe B. Donaldson Donaldson's Chevron	Replacement of bare steel tank and piping with fiberglass tank and piping; installation (on new tank and on three existing tanks) of line leak detectors, tank monitor, spill containment system and monitoring wells
TC-2798 Western Stations Co.	New installation of double wall (polyethylene outer wall, steel inner wall) tank and fiberglass piping; replacement of steel piping with fiberglass on existing tanks; installation of impressed current cathodic protection on all tanks; installation of spill containment manholes, breakaway connectors (with automatic shutoff) on nozzles, and tank monitor
TC-2856 Westside Mobil Car Wash	Installation of impressed current cathodic protection on existing tanks and new steel piping; installation of spill containment manholes, overfill prevention devices, tank monitor, line leak detectors and monitoring wells
TC-2901 Pioneer International, Inc.	Installation of epoxy lining inside bare steel tank and spill containment device; installation of spill containment manholes and tank monitor on existing tanks
TC-3086 Shirtcliff Oil Company	Replacement of bare steel tanks and piping with fiberglass tanks and piping; installation of line leak detectors, tank monitor, spill containment manholes, overfill prevention devices and monitoring wells
TC-3100 Shirtcliff Oil Company	Replacement of bare steel tanks and piping with fiberglass tanks and piping; installation of line leak

detectors, tank monitor, spill containment manholes, overfill prevention devices and monitoring wells

DESCRIPTION OF REQUESTED ACTION:

Issue Tax Credit Certificates for Pollution Control Facilities.

AUTHORITY/NEED FOR ACTION:

X	Required by Statute: ORS 468.150-468.190	Attachment ___
	Enactment Date: _____	
___	Statutory Authority: _____	Attachment ___
___	Pursuant to Rule: _____	Attachment ___
___	Pursuant to Federal Law/Rule: _____	Attachment ___
___	Other:	Attachment ___
___	Time Constraints: (explain)	

DEVELOPMENTAL BACKGROUND:

___	Advisory Committee Report/Recommendation	Attachment ___
___	Hearing Officer's Report/Recommendations	Attachment ___
___	Response to Testimony/Comments	Attachment ___
___	Prior EQC Agenda Items: (list)	Attachment ___
___	Other Related Reports/Rules/Statutes:	Attachment ___
___	Supplemental Background Information	Attachment ___

REGULATED/AFFECTED COMMUNITY CONSTRAINTS/CONSIDERATIONS:

None.

PROGRAM CONSIDERATIONS:

None.

ALTERNATIVES CONSIDERED BY THE DEPARTMENT:

None.

DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:

The Department recommends the Environmental Quality Commission approve TC-2350, TC-2541, TC-2542, TC-2544, TC-2545, TC-2546, TC-2547, TC-2549, TC-2550, TC-2551, TC-2552, TC-2553, TC-2554, TC-2555, TC-2556, TC-2559, TC-2561, TC-2562, TC-2565, TC-2566, TC-2567, TC-2568, TC-2569, TC-2570, TC-2571, TC-2573, TC-2578, TC-2579, TC-2580, TC-2581, TC-2582, TC-2583, TC-2584, TC-2585, TC-2586, TC-2587, TC-2588, TC-2590, TC-2591, TC-2592, TC-2593, TC-2594, TC-2595, TC-2596, TC-2597, TC-2684, TC-2685, TC-2765, TC-2798, TC-2856, TC-2901, TC-3086, and TC-3100 in that they comply with the Pollution Control Tax Credit Program requirements and regulations.

CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE POLICY:

Yes.

Note - Pollution Tax Credit Totals:

Proposed May 25, 1990 Totals:

Underground Storage Tanks	$ 384,664
Air Quality	0
Water Quality	0
Hazardous/Solid Waste	0
Noise	0
	$ 384,664

Calendar Year Totals through April 30, 1990

Underground Storage Tanks	$ 65,693
Air Quality	2,405,191
Water Quality	1,796,320
Hazardous/Solid Waste	106,934
Noise	0
	$4,374,138

INTENDED FOLLOWUP ACTIONS:

Notify applicants of Environmental Quality Commission actions.

Approved:

Section: _____

Division: _____

Director: _____

Report Prepared By: Barbara J. Anderson

Phone: 229-5870

Date Prepared: April 23, 1990

BA:y
MY100510
April 23, 1990

Application No. TC-2350

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Shirtcliff Oil Company
P. O. Box 6003
Myrtle Creek, OR 97457
UST Facility Number 0326

The applicant owns and operates a service station at 145 N. 5th Street, Riddle, OR 97469.

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

2. Description of Facility

The claimed pollution control facilities described in this application are replacement of three bare steel underground storage tanks and piping with fiberglass tanks and piping; and the installation of the following on each of the three tanks: Red Jacket line leak detection system, Veeder-Root TLS-250 automatic tank monitoring system, Emco-Wheaton spill containment manholes and overspill prevention devices, and monitoring wells.

The applicant claims the following cost and percentage for the claimed pollution control facility. The applicant provided an accountant's certification of costs claimed.

Claimed facility cost	$29,676
Percent allocable to pollution control	52.3%

3. Procedural Requirements

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

The facility met all statutory deadlines in that installation of the facility was substantially completed on January 15, 1988 and the application for certification was found to be complete within two years of substantial completion of the facility. However, due to other priorities and workload in the UST Compliance Section, the Department was unable to process the application in a timely manner.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

Prior to completing the work claimed, the facility had one five year old and two 15 year old bare steel tanks and piping holding petroleum motor fuel. There was no system for leak detection or spill and overfill protection. The bare steel tanks and piping could have deteriorated and leaked motor fuel into the soil and groundwater without detection.

Effective December 22, 1988, EPA established a ten year phase-in program for tank owners to upgrade existing underground storage tanks to new tank standards. This includes installing pollution control equipment to provide protection against releases due to corrosion, to prevent spills and releases from overfill, and to monitor for leaks.

To respond to corrosion protection, the applicant replaced the three bare steel tanks and piping with fiberglass tanks and piping. Using fiberglass tanks and piping meets EPA requirements for corrosion protection.

To respond to spill and overfill prevention, the applicant installed Emco-Wheaton spill containment manholes and overfill prevention devices on the three tanks. This equipment meets EPA requirements for spill and overfill prevention.

To respond to leak detection requirements, the applicant installed a Veeder-Root TLS-250 automatic tank level monitoring system connected to each of the three tanks. The applicant also installed Red Jacket line leak detectors in the piping for the three tanks. In addition, the applicant installed four groundwater monitoring wells for advanced release detection monitoring. This equipment meets EPA requirements for leak detection.

With respect to the applicant's claimed facility cost of $29,676, the Department determined that all of the costs included in this figure are eligible pursuant to the definition of a pollution control facility in ORS 648.155. A breakdown of the applicant's claimed costs is shown below.

Facility	Applicant Claimed Costs	Department Approved Costs
3 fiberglass tanks & piping	$ 14,850	$ 14,850
3 spill containment manholes	587	587
3 overfill prevention devices	280	280
TLS-250 automatic tank monitor	5,701	5,701
3 line leak detectors	486	486
Monitoring wells	126	126
Labor to install the system	7,646	7,646
Total	$ 29,676	$ 29,676
Eligible Facility Cost		$ 29,676

Although the applicant did not indicate if any soil assessment or tank testing work was accomplished before undertaking this project, the Department would not expect the applicant to proceed with the investment if any indication of leaking would have been detected during the project.

Based on information currently available, the applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current.

b. Eligible Cost Findings

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

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

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

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

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

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

The methods chosen are acceptable methods for meeting the requirements of federal regulations. The applicant stated that other systems were considered, but the system selected appeared to be the most cost effective and promised to provide excellent control.

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

The applicant claims no savings or increase in costs as a result of the installation.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

The applicant estimated that 52.3% of the claimed facility cost of $29,676 was allocable to pollution control. The applicant arrived at this percentage by estimating that 20% of the tank and piping cost, 60% of the cost of the automatic tank monitoring system, and 100% of the remaining costs were allocable to pollution control.

The Department determined the percent allocable using standardized methodology pursuant to the latest interpretation of the Oregon Administrative Rules Chapter 340 Division 16. The result is displayed in the table at the end of this section. An explanation of the treatment of the separate pollution control facility components is presented in the following paragraphs.

With respect to corrosion protection, the Department has determined the percent allocable on the cost of fiberglass tanks and piping by using a formula based on the difference in cost between a fiberglass and a bare steel tank and piping system as a percent of the fiberglass system. Applying this formula to the costs presented by the

applicant, where the fiberglass system cost is $14,850 and the bare steel system is $11,250, the resulting portion of the eligible tank cost allocable to pollution control is 24.2%.

The Department has determined that costs associated with the installation of the tanks and piping to replace existing tank systems are 100% allocable to pollution control, since the pollution control could not have been achieved without these expenditures.

With respect to spill and overfill prevention, the Department has determined that spill and overfill prevention equipment is solely for the purpose of pollution control and, therefore, is 100% allocable.

The applicant's claimed cost for a leak detection system, the Veeder-Root TLS-250 Tank Monitor and fittings, is reduced to 90% of cost based on a determination by the Department that this is the portion properly allocable to pollution control since the equipment can serve other purposes such as inventory control. The cost of line leak detectors and monitoring wells are considered 100% allocable, however, because they are viewed by the Department as solely for the purpose of pollution control.

In summary, we find the actual cost of the facility properly allocable to pollution control as follows:

	Eligible Facility Cost	Percent Allocable	Amount Allocable
Corrosion Protection:			
Fiberglass tank & piping	$14,850	24.2%	$ 3,594
Spill & Overfill Prevention:			
Spill Containment Manholes	587	100.0%	587
Overfill prevention devices	280	100.0%	280
Leak Detection:			
Tank monitor and fittings	5,701	90.0%	5,131
Line leak detectors	486	100.0%	486
Monitoring Wells	126	100.0%	126
Labor on existing tanks	7,646	100.0%	7,646
Total	$29,676	60.1%	$17,850

5. Summation

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

b. The facility is eligible for tax credit certification in that the principal purpose of the claimed facility is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases in soil or water. The facility qualifies as a "pollution control facility:, defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

c. The facility complies with DEQ statutes and rules.

d. The portion of the facility cost that is properly allocable to pollution control is 60.1%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $29,676 with 60.1% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-2350.

Barbara J. Anderson
(503) 229-5870
April 20, 1990

Application No. TC-2541

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Merritt Truax, Inc.
PO Box 2099
Salem, OR 97308
Facility No. 3627

The applicant owns and operates a bulk fuel plant at 3025 Industrial Way, N. E., Salem, Oregon 97303.

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

2. Description of Facility

The claimed pollution control facilities described in this application are EBW 705-5 spill containment manholes with recovery vessels for overfill protection installed on each of the applicant's underground storage tanks containing petroleum motor fuel.

The applicant claims the following cost and percentage for the claimed pollution control facility. The applicant provided documentation of cost.

Claimed Facility Cost:	$2,778
Percent Allocable to Pollution Control	100%

3. Procedural Requirements

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

The facility met all statutory deadlines in that:

a. A request for preliminary certification was filed and approval given.

b. Installation of the facility was substantially completed on February 1, 1989 and the application for certification was found to be complete within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

Prior to completing the work claimed, the facility had no spill or overfill prevention system and any spills or overfill of petroleum would run directly into the ground.

Effective December 22, 1988, EPA established a ten year phase-in program for tank owners to upgrade existing underground storage tanks to new tank standards. This includes installing pollution control equipment to provide protection against releases due to corrosion, to prevent spills and release from overfill and to monitor for leaks.

To respond to spill and overfill prevention requirements, the applicant installed EBW 705-5 spill containment manholes with recovery vessels on the petroleum motor fuel underground storage tanks. This equipment meets EPA requirements for spill and overfill prevention.

With respect to the applicant's claimed facility cost of $2,778, the Department determined that all of the costs included in this figure are eligible pursuant to the definition of a pollution control facility in ORS 648.155. A breakdown of the applicant's claimed costs and Department approved costs is shown below.

Facility	Applicant Claimed Costs	Department Approved Costs
6 EBW 705-5 spill containment device(s)	$ 978	$ 978
Installation of device(s)	1,800	1,800
Total	$2,778	$2,778
Eligible Facility Cost		$2,778

The applicant did not indicate if any soil assessment or tank testing work was accomplished before undertaking this project. The Department would not expect the company to proceed with the investment if any indication of leaking would have been detected.

The applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current.

b. Eligible Cost Findings

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

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

The claimed facility is intended to prevent spills and to protect from overfills. The applicant states that the fuel captured from overfills can be reused, but adds that the economic gain from such reuse is too small to have an effect.

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

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

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

The methods chosen are acceptable methods for meeting the requirements of federal regulations. Other than different manufacturers of the same equipment, there are no alternatives in meeting this requirement.

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

The applicant claims no savings or increase in costs as a result of the facility installation.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

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

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

5. Summation

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

b. The facility is eligible for final tax credit certification in that the principal purpose of the claimed facilities is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

c. The facility complies with DEQ statutes and rules.

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

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $2,778 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-2541.

Barbara J. Anderson:m
HazMat\SM2913
(503) 229-5870
4/12/90

Application No. TC-2542

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Merritt Truax, Inc.
PO Box 2099
Salem, OR 97308
Facility No. 6437

The applicant owns and operates a retail service station at 35310 Highway 58, Pleasant Hil, Oregon 97455.

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

2. Description of Facility

The claimed pollution control facilities described in this application are EBW 705-5 spill containment manholes with recovery vessels for overfill protection installed on each of the applicant's underground storage tanks containing petroleum motor fuel.

The applicant claims the following cost and percentage for the claimed pollution control facility. The applicant provided documentation of cost.

Claimed Facility Cost:	$1,852
Percent Allocable to Pollution Control	100%

3. Procedural Requirements

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

The facility met all statutory deadlines in that:

a. A request for preliminary certification was filed and approval given.

b. Installation of the facility was substantially completed on April 12, 1989 and the application for certification was found to be complete within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental

Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

Prior to completing the work claimed, the facility had no spill or overfill prevention system and any spills or overfill of petroleum would run directly into the ground.

Effective December 22, 1988, EPA established a ten year phase-in program for tank owners to upgrade existing underground storage tanks to new tank standards. This includes installing pollution control equipment to provide protection against releases due to corrosion, to prevent spills and release from overfill and to monitor for leaks.

To respond to spill and overfill prevention requirements, the applicant installed EBW 705-5 spill containment manholes with recovery vessels on the petroleum motor fuel underground storage tanks. This equipment meets EPA requirements for spill and overfill prevention.

With respect to the applicant's claimed facility cost of $1,852, the Department determined that all of the costs included in this figure are eligible pursuant to the definition of a pollution control facility in ORS 648.155. A breakdown of the applicant's claimed costs and Department approved costs is shown below.

Facility	Applicant Claimed Costs	Department Approved Costs
4 EBW 705-5 spill containment device(s)	$ 652	$ 652
Installation of device(s)	1,200	1,200
Total	$1,852	$1,852
Eligible Facility Cost		$1,852

The applicant did not indicate if any soil assessment or tank testing work was accomplished before undertaking this project. The Department would not expect the company to proceed with the investment if any indication of leaking would have been detected.

The applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current.

b. Eligible Cost Findings

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

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

The claimed facility is intended to prevent spills and to protect from overfills. The applicant states that the fuel captured from overfills can be reused, but adds that the economic gain from such reuse is too small to have an effect.

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

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

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

The methods chosen are acceptable methods for meeting the requirements of federal regulations. Other than different manufacturers of the same equipment, there are no alternatives in meeting this requirement.

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

The applicant claims no savings or increase in costs as a result of the facility installation.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

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

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

5. Summation

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

b. The facility is eligible for final tax credit certification in that the principal purpose of the claimed facilities is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

c. The facility complies with DEQ statutes and rules.

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

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $1,852 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-2542.

Barbara J. Anderson:m
HazMat\SM2916
(503) 229-5870
4/13/90

Application No. TC-2544

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Merritt Truax, Inc.
PO Box 2099
Salem, OR 97308
Facility No. 6440

The applicant owns and operates a retail service station at 585 Wallace Road N. W., Salem, Oregon 97304.

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

2. Description of Facility

The claimed pollution control facilities described in this application are EBW 705-5 spill containment manholes with recovery vessels for overfill protection installed on each of the applicant's underground storage tanks containing petroleum motor fuel.

The applicant claims the following cost and percentage for the claimed pollution control facility. The applicant provided documentation of cost.

Claimed Facility Cost:	$1,852
Percent Allocable to Pollution Control	100%

3. Procedural Requirements

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

The facility met all statutory deadlines in that:

a. A request for preliminary certification was filed and approval given.

b. Installation of the facility was substantially completed on February 2, 1989 and the application for certification was found to be complete within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

Prior to completing the work claimed, the facility had no spill or overfill prevention system and any spills or overfill of petroleum would run directly into the ground.

Effective December 22, 1988, EPA established a ten year phase-in program for tank owners to upgrade existing underground storage tanks to new tank standards. This includes installing pollution control equipment to provide protection against releases due to corrosion, to prevent spills and release from overfill and to monitor for leaks.

To respond to spill and overfill prevention requirements, the applicant installed EBW 705-5 spill containment manholes with recovery vessels on the petroleum motor fuel underground storage tanks. This equipment meets EPA requirements for spill and overfill prevention.

With respect to the applicant's claimed facility cost of $1,852, the Department determined that all of the costs included in this figure are eligible pursuant to the definition of a pollution control facility in ORS 648.155. A breakdown of the applicant's claimed costs and Department approved costs is shown below.

Facility	Applicant Claimed Costs	Department Approved Costs
4 EBW 705-5 spill containment device(s)	$ 652	$ 652
Installation of device(s)	1,200	1,200
Total	$1,852	$1,852
Eligible Facility Cost		$1,852

The applicant did not indicate if any soil assessment or tank testing work was accomplished before undertaking this project. The Department would not expect the company to proceed with the investment if any indication of leaking would have been detected.

The applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current.

b. Eligible Cost Findings

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

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

The claimed facility is intended to prevent spills and to protect from overfills. The applicant states that the fuel captured from overfills can be reused, but adds that the economic gain from such reuse is too small to have an effect.

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

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

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

The methods chosen are acceptable methods for meeting the requirements of federal regulations. Other than different manufacturers of the same equipment, there are no alternatives in meeting this requirement.

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

The applicant claims no savings or increase in costs as a result of the facility installation.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

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

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

5. Summation

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

b. The facility is eligible for final tax credit certification in that the principal purpose of the claimed facilities is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

c. The facility complies with DEQ statutes and rules.

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

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $1,852 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-2544.

Barbara J. Anderson:m
HazMat\SM2950
(503) 229-5870
4/17/90

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Merritt Truax, Inc.
PO Box 2099
Salem, OR 97308
Facility No. 3612

The applicant owns and operates a retail service station at 621 N. Water Street, Silverton, Oregon 97381.

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

2. Description of Facility

The claimed pollution control facilities described in this application are EBW 705-5 spill containment manholes with recovery vessels for overfill protection installed on each of the applicant's underground storage tanks containing petroleum motor fuel.

The applicant claims the following cost and percentage for the claimed pollution control facility. The applicant provided documentation of cost.

Claimed Facility Cost:	$1,852
Percent Allocable to Pollution Control	100%

3. Procedural Requirements

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

The facility met all statutory deadlines in that:

a. A request for preliminary certification was filed and approval given.

b. Installation of the facility was substantially completed on April 15, 1989 and the application for certification was found to be complete within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

Prior to completing the work claimed, the facility had no spill or overfill prevention system and any spills or overfill of petroleum would run directly into the ground.

Effective December 22, 1988, EPA established a ten year phase-in program for tank owners to upgrade existing underground storage tanks to new tank standards. This includes installing pollution control equipment to provide protection against releases due to corrosion, to prevent spills and release from overfill and to monitor for leaks.

To respond to spill and overfill prevention requirements, the applicant installed EBW 705-5 spill containment manholes with recovery vessels on the petroleum motor fuel underground storage tanks. This equipment meets EPA requirements for spill and overfill prevention.

With respect to the applicant's claimed facility cost of $1,852, the Department determined that all of the costs included in this figure are eligible pursuant to the definition of a pollution control facility in ORS 648.155. A breakdown of the applicant's claimed costs and Department approved costs is shown below.

Facility	Applicant Claimed Costs	Department Approved Costs
4 EBW 705-5 spill containment device(s)	$ 652	$ 652
Installation of device(s)	1,200	1,200
Total	$1,852	$1,852
Eligible Facility Cost		$1,852

The applicant did not indicate if any soil assessment or tank testing work was accomplished before undertaking this project. The Department would not expect the company to proceed with the investment if any indication of leaking would have been detected.

The applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current.

b. Eligible Cost Findings

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

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

The claimed facility is intended to prevent spills and to protect from overfills. The applicant states that the fuel captured from overfills can be reused, but adds that the economic gain from such reuse is too small to have an effect.

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

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

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

The methods chosen are acceptable methods for meeting the requirements of federal regulations. Other than different manufacturers of the same equipment, there are no alternatives in meeting this requirement.

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

The applicant claims no savings or increase in costs as a result of the facility installation.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

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

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

5. Summation

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

b. The facility is eligible for final tax credit certification in that the principal purpose of the claimed facilities is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

c. The facility complies with DEQ statutes and rules.

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

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $1,852 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-2545.

Barbara J. Anderson:m
HazMat\SM2932
(503) 229-5870
4/13/90

Application No. TC-2546

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Merritt Truax, Inc.
PO Box 2099
Salem, OR 97308
Facility No. 3619

The applicant owns and operates a retail service station at 3510 River Road North, Salem, Oregon 97303.

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

2. Description of Facility

The claimed pollution control facilities described in this application are EBW 705-5 spill containment manholes with recovery vessels for overfill protection installed on each of the applicant's underground storage tanks containing petroleum motor fuel.

The applicant claims the following cost and percentage for the claimed pollution control facility. The applicant provided documentation of cost.

Claimed Facility Cost:	$1,389
Percent Allocable to Pollution Control	100%

3. Procedural Requirements

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

The facility met all statutory deadlines in that:

a. A request for preliminary certification was filed and approval given.

b. Installation of the facility was substantially completed on February 1, 1989 and the application for certification was found to be complete within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

Prior to completing the work claimed, the facility had no spill or overfill prevention system and any spills or overfill of petroleum would run directly into the ground.

Effective December 22, 1988, EPA established a ten year phase-in program for tank owners to upgrade existing underground storage tanks to new tank standards. This includes installing pollution control equipment to provide protection against releases due to corrosion, to prevent spills and release from overfill and to monitor for leaks.

To respond to spill and overfill prevention requirements, the applicant installed EBW 705-5 spill containment manholes with recovery vessels on the petroleum motor fuel underground storage tanks. This equipment meets EPA requirements for spill and overfill prevention.

With respect to the applicant's claimed facility cost of $1,389, the Department determined that all of the costs included in this figure are eligible pursuant to the definition of a pollution control facility in ORS 648.155. A breakdown of the applicant's claimed costs and Department approved costs is shown below.

Facility	Applicant Claimed Costs	Department Approved Costs
3 EBW 705-5 spill containment device(s)	$ 489	$ 489
Installation of device(s)	900	900
Total	$1,389	$1,389
Eligible Facility Cost		$1,389

The applicant did not indicate if any soil assessment or tank testing work was accomplished before undertaking this project. The Department would not expect the company to proceed with the investment if any indication of leaking would have been detected.

The applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current.

b. Eligible Cost Findings

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

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

The claimed facility is intended to prevent spills and to protect from overfills. The applicant states that the fuel captured from overfills can be reused, but adds that the economic gain from such reuse is too small to have an effect.

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

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

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

The methods chosen are acceptable methods for meeting the requirements of federal regulations. Other than different manufacturers of the same equipment, there are no alternatives in meeting this requirement.

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

The applicant claims no savings or increase in costs as a result of the facility installation.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

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

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

5. Summation

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

b. The facility is eligible for final tax credit certification in that the principal purpose of the claimed facilities is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

c. The facility complies with DEQ statutes and rules.

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

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $1,389 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-2546.

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4/13/90

Application No. TC-2547

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Merritt Truax, Inc.
PO Box 2099
Salem, OR 97308
Facility No. 6444

The applicant owns and operates a retail service station at 1395 Highway 99, Eugene, Oregon 97402.

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

2. Description of Facility

The claimed pollution control facilities described in this application are EBW 705-5 spill containment manholes with recovery vessels for overfill protection installed on each of the applicant's underground storage tanks containing petroleum motor fuel.

The applicant claims the following cost and percentage for the claimed pollution control facility. The applicant provided documentation of cost.

Claimed Facility Cost:	$1,389
Percent Allocable to Pollution Control	100%

3. Procedural Requirements

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

The facility met all statutory deadlines in that:

a. A request for preliminary certification was filed and approval given.

b. Installation of the facility was substantially completed on April 30, 1989 and the application for certification was found to be complete within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

Prior to completing the work claimed, the facility had no spill or overfill prevention system and any spills or overfill of petroleum would run directly into the ground.

Effective December 22, 1988, EPA established a ten year phase-in program for tank owners to upgrade existing underground storage tanks to new tank standards. This includes installing pollution control equipment to provide protection against releases due to corrosion, to prevent spills and release from overfill and to monitor for leaks.

To respond to spill and overfill prevention requirements, the applicant installed EBW 705-5 spill containment manholes with recovery vessels on the petroleum motor fuel underground storage tanks. This equipment meets EPA requirements for spill and overfill prevention.

With respect to the applicant's claimed facility cost of $1,389, the Department determined that all of the costs included in this figure are eligible pursuant to the definition of a pollution control facility in ORS 648.155. A breakdown of the applicant's claimed costs and Department approved costs is shown below.

Facility	Applicant Claimed Costs	Department Approved Costs
3 EBW 705-5 spill containment device(s)	$ 489	$ 489
Installation of device(s)	900	900
Total	$1,389	$1,389
Eligible Facility Cost		$1,389

The applicant did not indicate if any soil assessment or tank testing work was accomplished before undertaking this project. The Department would not expect the company to proceed with the investment if any indication of leaking would have been detected.

The applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current.

b. Eligible Cost Findings

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

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

The claimed facility is intended to prevent spills and to protect from overfills. The applicant states that the fuel captured from overfills can be reused, but adds that the economic gain from such reuse is too small to have an effect.

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

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

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

The methods chosen are acceptable methods for meeting the requirements of federal regulations. Other than different manufacturers of the same equipment, there are no alternatives in meeting this requirement.

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

The applicant claims no savings or increase in costs as a result of the facility installation.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

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

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

5. Summation

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

b. The facility is eligible for final tax credit certification in that the principal purpose of the claimed facilities is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

c. The facility complies with DEQ statutes and rules.

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

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $1,389 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-2547.

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4/13/90

Application No. TC-2549

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Metrofueling, Inc.
PO Box 2099
Salem, OR 97308
Facility No. 3615

The applicant owns and operates a commercial cardlock fueling station at 2600 Prairie Road, Eugene, Oregon 97402.

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

2. Description of Facility

The claimed pollution control facilities described in this application are EBW 705-5 spill containment manholes with recovery vessels for overfill protection installed on each of the applicant's underground storage tanks containing petroleum motor fuel.

The applicant claims the following cost and percentage for the claimed pollution control facility. The applicant provided documentation of cost.

Claimed Facility Cost:	$1,389
Percent Allocable to Pollution Control	100%

3. Procedural Requirements

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

The facility met all statutory deadlines in that:

a. A request for preliminary certification was filed and approval given.

b. Installation of the facility was substantially completed on April 21, 1989 and the application for certification was found to be complete within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

Prior to completing the work claimed, the facility had no spill or overfill prevention system and any spills or overfill of petroleum would run directly into the ground.

Effective December 22, 1988, EPA established a ten year phase-in program for tank owners to upgrade existing underground storage tanks to new tank standards. This includes installing pollution control equipment to provide protection against releases due to corrosion, to prevent spills and release from overfill and to monitor for leaks.

To respond to spill and overfill prevention requirements, the applicant installed EBW 705-5 spill containment manholes with recovery vessels on the petroleum motor fuel underground storage tanks. This equipment meets EPA requirements for spill and overfill prevention.

With respect to the applicant's claimed facility cost of $1,389, the Department determined that all of the costs included in this figure are eligible pursuant to the definition of a pollution control facility in ORS 648.155. A breakdown of the applicant's claimed costs and Department approved costs is shown below.

Facility	Applicant Claimed Costs	Department Approved Costs
3 EBW 705-5 spill containment device(s)	$ 489	$ 489
Installation of device(s)	900	900
Total	$1,389	$1,389
Eligible Facility Cost		$1,389

The applicant did not indicate if any soil assessment or tank testing work was accomplished before undertaking this project. The Department would not expect the company to proceed with the investment if any indication of leaking would have been detected.

The applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current.

b. Eligible Cost Findings

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

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

The claimed facility is intended to prevent spills and to protect from overfills. The applicant states that the fuel captured from overfills can be reused, but adds that the economic gain from such reuse is too small to have an effect.

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

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

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

The methods chosen are acceptable methods for meeting the requirements of federal regulations. Other than different manufacturers of the same equipment, there are no alternatives in meeting this requirement.

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

The applicant claims no savings or increase in costs as a result of the facility installation.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

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

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

5. Summation

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

b. The facility is eligible for final tax credit certification in that the principal purpose of the claimed facilities is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

c. The facility complies with DEQ statutes and rules.

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

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $1,389 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-2549.

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4/13/90

Application No. TC-2550

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Metrofueling, Inc.
PO Box 2099
Salem, OR 97308
Facility No. 1789

The applicant owns and operates a commercial cardlock fueling station at 680 Center Street N. E., Salem, Oregon 97301.

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

2. Description of Facility

The claimed pollution control facilities described in this application are EBW 705-5 spill containment manholes with recovery vessels for overfill protection installed on each of the applicant's underground storage tanks containing petroleum motor fuel.

The applicant claims the following cost and percentage for the claimed pollution control facility. The applicant provided documentation of cost.

Claimed Facility Cost:	$1,852
Percent Allocable to Pollution Control	100%

3. Procedural Requirements

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

The facility met all statutory deadlines in that:

a. A request for preliminary certification was filed and approval given.

b. Installation of the facility was substantially completed on February 2, 1989 and the application for certification was found to be complete within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

Prior to completing the work claimed, the facility had no spill or overfill prevention system and any spills or overfill of petroleum would run directly into the ground.

Effective December 22, 1988, EPA established a ten year phase-in program for tank owners to upgrade existing underground storage tanks to new tank standards. This includes installing pollution control equipment to provide protection against releases due to corrosion, to prevent spills and release from overfill and to monitor for leaks.

To respond to spill and overfill prevention requirements, the applicant installed EBW 705-5 spill containment manholes with recovery vessels on the petroleum motor fuel underground storage tanks. This equipment meets EPA requirements for spill and overfill prevention.

With respect to the applicant's claimed facility cost of $1,852, the Department determined that all of the costs included in this figure are eligible pursuant to the definition of a pollution control facility in ORS 648.155. A breakdown of the applicant's claimed costs and Department approved costs is shown below.

Facility	Applicant Claimed Costs	Department Approved Costs
4 EBW 705-5 spill containment device(s)	$ 652	$ 652
Installation of device(s)	1,200	1,200
Total	$1,852	$1,852
Eligible Facility Cost		$1,852

The applicant did not indicate if any soil assessment or tank testing work was accomplished before undertaking this project. The Department would not expect the company to proceed with the investment if any indication of leaking would have been detected.

The applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current.

b. Eligible Cost Findings

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

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

The claimed facility is intended to prevent spills and to protect from overfills. The applicant states that the fuel captured from overfills can be reused, but adds that the economic gain from such reuse is too small to have an effect.

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

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

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

The methods chosen are acceptable methods for meeting the requirements of federal regulations. Other than different manufacturers of the same equipment, there are no alternatives in meeting this requirement.

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

The applicant claims no savings or increase in costs as a result of the facility installation.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

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

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

5. Summation

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

b. The facility is eligible for final tax credit certification in that the principal purpose of the claimed facilities is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

c. The facility complies with DEQ statutes and rules.

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

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $1,852 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-2550.

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4/13/90

Application No. TC-2551

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Metrofueling, Inc.
PO Box 2099
Salem, OR 97308
Facility No. 3627

The applicant owns and operates a commercial cardlock fueling station at 3025 Industrial Way N. E., Salem, Oregon 97303.

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

2. Description of Facility

The claimed pollution control facilities described in this application are EBW 705-5 spill containment manholes with recovery vessels for overfill protection installed on each of the applicant's underground storage tanks containing petroleum motor fuel.

The applicant claims the following cost and percentage for the claimed pollution control facility. The applicant provided documentation of cost.

Claimed Facility Cost:	$1,852
Percent Allocable to Pollution Control	100%

3. Procedural Requirements

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

The facility met all statutory deadlines in that:

a. A request for preliminary certification was filed and approval given.

b. Installation of the facility was substantially completed on February 1, 1989 and the application for certification was found to be complete within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

Prior to completing the work claimed, the facility had no spill or overfill prevention system and any spills or overfill of petroleum would run directly into the ground.

Effective December 22, 1988, EPA established a ten year phase-in program for tank owners to upgrade existing underground storage tanks to new tank standards. This includes installing pollution control equipment to provide protection against releases due to corrosion, to prevent spills and release from overfill and to monitor for leaks.

To respond to spill and overfill prevention requirements, the applicant installed EBW 705-5 spill containment manholes with recovery vessels on the petroleum motor fuel underground storage tanks. This equipment meets EPA requirements for spill and overfill prevention.

With respect to the applicant's claimed facility cost of $1,852, the Department determined that all of the costs included in this figure are eligible pursuant to the definition of a pollution control facility in ORS 648.155. A breakdown of the applicant's claimed costs and Department approved costs is shown below.

Facility	Applicant Claimed Costs	Department Approved Costs
4 EBW 705-5 spill containment device(s)	$ 652	$ 652
Installation of device(s)	1,200	1,200
Total	$1,852	$1,852
Eligible Facility Cost		$1,852

The applicant did not indicate if any soil assessment or tank testing work was accomplished before undertaking this project. The Department would not expect the company to proceed with the investment if any indication of leaking would have been detected.

The applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current.

b. Eligible Cost Findings

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

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

The claimed facility is intended to prevent spills and to protect from overfills. The applicant states that the fuel captured from overfills can be reused, but adds that the economic gain from such reuse is too small to have an effect.

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

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

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

The methods chosen are acceptable methods for meeting the requirements of federal regulations. Other than different manufacturers of the same equipment, there are no alternatives in meeting this requirement.

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

The applicant claims no savings or increase in costs as a result of the facility installation.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

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

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

5. Summation

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

b. The facility is eligible for final tax credit certification in that the principal purpose of the claimed facilities is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

c. The facility complies with DEQ statutes and rules.

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

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $1,852 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-2551.

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4/13/90

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Metrofueling, Inc.
PO Box 2099
Salem, OR 97308
Facility No. 3613

The applicant owns and operates a commercial cardlock fueling station at 205 Columbia Street N. E., Salem, Oregon 97303.

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

2. Description of Facility

The claimed pollution control facilities described in this application are EBW 705-5 spill containment manholes with recovery vessels for overfill protection installed on each of the applicant's underground storage tanks containing petroleum motor fuel.

The applicant claims the following cost and percentage for the claimed pollution control facility. The applicant provided documentation of cost.

Claimed Facility Cost:	$2,315
Percent Allocable to Pollution Control	100%

3. Procedural Requirements

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

The facility met all statutory deadlines in that:

a. A request for preliminary certification was filed and approval given.

b. Installation of the facility was substantially completed on March 25, 1989 and the application for certification was found to be complete within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

Prior to completing the work claimed, the facility had no spill or overfill prevention system and any spills or overfill of petroleum would run directly into the ground.

Effective December 22, 1988, EPA established a ten year phase-in program for tank owners to upgrade existing underground storage tanks to new tank standards. This includes installing pollution control equipment to provide protection against releases due to corrosion, to prevent spills and release from overfill and to monitor for leaks.

To respond to spill and overfill prevention requirements, the applicant installed EBW 705-5 spill containment manholes with recovery vessels on the petroleum motor fuel underground storage tanks. This equipment meets EPA requirements for spill and overfill prevention.

With respect to the applicant's claimed facility cost of $2,315, the Department determined that all of the costs included in this figure are eligible pursuant to the definition of a pollution control facility in ORS 648.155. A breakdown of the applicant's claimed costs and Department approved costs is shown below.

Facility	Applicant Claimed Costs	Department Approved Costs
5 EBW 705-5 spill containment device(s)	$ 815	$ 815
Installation of device(s)	1,500	1,500
Total	$2,315	$2,315
Eligible Facility Cost		$2,315

The applicant did not indicate if any soil assessment or tank testing work was accomplished before undertaking this project. The Department would not expect the company to proceed with the investment if any indication of leaking would have been detected.

The applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current.

b. Eligible Cost Findings

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

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

The claimed facility is intended to prevent spills and to protect from overfills. The applicant states that the fuel captured from overfills can be reused, but adds that the economic gain from such reuse is too small to have an effect.

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

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

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

The methods chosen are acceptable methods for meeting the requirements of federal regulations. Other than different manufacturers of the same equipment, there are no alternatives in meeting this requirement.

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

The applicant claims no savings or increase in costs as a result of the facility installation.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

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

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

5. Summation

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

b. The facility is eligible for final tax credit certification in that the principal purpose of the claimed facilities is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

c. The facility complies with DEQ statutes and rules.

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

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $2,315 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-2552.

Barbara J. Anderson:m
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4/13/90

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Metrofueling, Inc.
PO Box 2099
Salem, OR 97308
Facility No. 8424

The applicant owns and operates a commercial cardlock fueling station at 10000 S. W. Barbur Boulevard, Portland, Oregon 97219.

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

2. Description of Facility

The claimed pollution control facilities described in this application are EBW 705-5 spill containment manholes with recovery vessels for overfill protection installed on each of the applicant's underground storage tanks containing petroleum motor fuel.

The applicant claims the following cost and percentage for the claimed pollution control facility. The applicant provided documentation of cost.

Claimed Facility Cost:	$2,778
Percent Allocable to Pollution Control	100%

3. Procedural Requirements

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

The facility met all statutory deadlines in that:

a. A request for preliminary certification was filed and approval given.

b. Installation of the facility was substantially completed on April 7, 1989 and the application for certification was found to be complete within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

Prior to completing the work claimed, the facility had no spill or overfill prevention system and any spills or overfill of petroleum would run directly into the ground.

Effective December 22, 1988, EPA established a ten year phase-in program for tank owners to upgrade existing underground storage tanks to new tank standards. This includes installing pollution control equipment to provide protection against releases due to corrosion, to prevent spills and release from overfill and to monitor for leaks.

To respond to spill and overfill prevention requirements, the applicant installed EBW 705-5 spill containment manholes with recovery vessels on the petroleum motor fuel underground storage tanks. This equipment meets EPA requirements for spill and overfill prevention.

With respect to the applicant's claimed facility cost of $2,778, the Department determined that all of the costs included in this figure are eligible pursuant to the definition of a pollution control facility in ORS 648.155. A breakdown of the applicant's claimed costs and Department approved costs is shown below.

Facility	Applicant Claimed Costs	Department Approved Costs
6 EBW 705-5 spill containment device(s)	$ 978	$ 978
Installation of device(s)	1,800	1,800
Total	$2,778	$2,778
Eligible Facility Cost		$2,778

The applicant did not indicate if any soil assessment or tank testing work was accomplished before undertaking this project. The Department would not expect the company to proceed with the investment if any indication of leaking would have been detected.

The applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current.

b. Eligible Cost Findings

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

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

The claimed facility is intended to prevent spills and to protect from overfills. The applicant states that the fuel captured from overfills can be reused, but adds that the economic gain from such reuse is too small to have an effect.

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

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

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

The methods chosen are acceptable methods for meeting the requirements of federal regulations. Other than different manufacturers of the same equipment, there are no alternatives in meeting this requirement.

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

The applicant claims no savings or increase in costs as a result of the facility installation.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

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

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

5. Summation

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

b. The facility is eligible for final tax credit certification in that the principal purpose of the claimed facilities is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

c. The facility complies with DEQ statutes and rules.

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

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $2,778 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-2553.

Barbara J. Anderson:m
HazMat\SM2956
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4/13/90

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Metrofueling, Inc.
PO Box 2099
Salem, OR 97308
Facility No. 3605

The applicant owns and operates a commercial cardlock fueling station at 16650 S. W. 72nd, Portland, Oregon 97224.

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

2. Description of Facility

The claimed pollution control facilities described in this application are EBW 705-5 spill containment manholes with recovery vessels for overfill protection installed on each of the applicant's underground storage tanks containing petroleum motor fuel.

The applicant claims the following cost and percentage for the claimed pollution control facility. The applicant provided documentation of cost.

Claimed Facility Cost:	$1,389
Percent Allocable to Pollution Control	100%

3. Procedural Requirements

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

The facility met all statutory deadlines in that:

a. A request for preliminary certification was filed and approval given.

b. Installation of the facility was substantially completed on April 15, 1989 and the application for certification was found to be complete within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

Prior to completing the work claimed, the facility had no spill or overfill prevention system and any spills or overfill of petroleum would run directly into the ground.

Effective December 22, 1988, EPA established a ten year phase-in program for tank owners to upgrade existing underground storage tanks to new tank standards. This includes installing pollution control equipment to provide protection against releases due to corrosion, to prevent spills and release from overfill and to monitor for leaks.

To respond to spill and overfill prevention requirements, the applicant installed EBW 705-5 spill containment manholes with recovery vessels on the petroleum motor fuel underground storage tanks. This equipment meets EPA requirements for spill and overfill prevention.

With respect to the applicant's claimed facility cost of $1,389, the Department determined that all of the costs included in this figure are eligible pursuant to the definition of a pollution control facility in ORS 648.155. A breakdown of the applicant's claimed costs and Department approved costs is shown below.

Facility	Applicant Claimed Costs	Department Approved Costs
3 EBW 705-5 spill containment device(s)	$ 489	$ 489
Installation of device(s)	900	900
Total	$1,389	$1,389
Eligible Facility Cost		$1,389

The applicant did not indicate if any soil assessment or tank testing work was accomplished before undertaking this project. The Department would not expect the company to proceed with the investment if any indication of leaking would have been detected.

The applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current.

b. Eligible Cost Findings

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

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

The claimed facility is intended to prevent spills and to protect from overfills. The applicant states that the fuel captured from overfills can be reused, but adds that the economic gain from such reuse is too small to have an effect.

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

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

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

The methods chosen are acceptable methods for meeting the requirements of federal regulations. Other than different manufacturers of the same equipment, there are no alternatives in meeting this requirement.

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

The applicant claims no savings or increase in costs as a result of the facility installation.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

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

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

5. Summation

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

b. The facility is eligible for final tax credit certification in that the principal purpose of the claimed facilities is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

c. The facility complies with DEQ statutes and rules.

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

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $1,389 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-2554.

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4/13/90

Application No. TC-2555

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Metrofueling, Inc.
PO Box 2099
Salem, OR 97308
Facility No. 3617

The applicant owns and operates a commercial cardlock fueling station at 3037 N. W. 29th Avenue, Portland, Oregon 97210.

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

2. Description of Facility

The claimed pollution control facilities described in this application are EBW 705-5 spill containment manholes with recovery vessels for overfill protection installed on each of the applicant's underground storage tanks containing petroleum motor fuel.

The applicant claims the following cost and percentage for the claimed pollution control facility. The applicant provided documentation of cost.

Claimed Facility Cost:	$1,852
Percent Allocable to Pollution Control	100%

3. Procedural Requirements

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

The facility met all statutory deadlines in that:

a. A request for preliminary certification was filed and approval given.

b. Installation of the facility was substantially completed on April 10, 1989 and the application for certification was found to be complete within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

Prior to completing the work claimed, the facility had no spill or overfill prevention system and any spills or overfill of petroleum would run directly into the ground.

Effective December 22, 1988, EPA established a ten year phase-in program for tank owners to upgrade existing underground storage tanks to new tank standards. This includes installing pollution control equipment to provide protection against releases due to corrosion, to prevent spills and release from overfill and to monitor for leaks.

To respond to spill and overfill prevention requirements, the applicant installed EBW 705-5 spill containment manholes with recovery vessels on the petroleum motor fuel underground storage tanks. This equipment meets EPA requirements for spill and overfill prevention.

With respect to the applicant's claimed facility cost of $1,852, the Department determined that all of the costs included in this figure are eligible pursuant to the definition of a pollution control facility in ORS 648.155. A breakdown of the applicant's claimed costs and Department approved costs is shown below.

Facility	Applicant Claimed Costs	Department Approved Costs
4 EBW 705-5 spill containment device(s)	$ 652	$ 652
Installation of device(s)	1,200	1,200
Total	$1,852	$1,852
Eligible Facility Cost		$1,852

The applicant did not indicate if any soil assessment or tank testing work was accomplished before undertaking this project. The Department would not expect the company to proceed with the investment if any indication of leaking would have been detected.

The applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current.

b. Eligible Cost Findings

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

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

The claimed facility is intended to prevent spills and to protect from overfills. The applicant states that the fuel captured from overfills can be reused, but adds that the economic gain from such reuse is too small to have an effect.

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

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

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

The methods chosen are acceptable methods for meeting the requirements of federal regulations. Other than different manufacturers of the same equipment, there are no alternatives in meeting this requirement.

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

The applicant claims no savings or increase in costs as a result of the facility installation.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

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

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

5. Summation

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

b. The facility is eligible for final tax credit certification in that the principal purpose of the claimed facilities is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

c. The facility complies with DEQ statutes and rules.

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

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $1,852 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-2555.

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4/13/90

Application No. TC-2556

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Metrofueling, Inc.
PO Box 2099
Salem, OR 97308
Facility No. 3616

The applicant owns and operates a commercial cardlock fueling station at 236 1st Avenue East, Albany, Oregon 97321.

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

2. Description of Facility

The claimed pollution control facilities described in this application are EBW 705-5 spill containment manholes with recovery vessels for overfill protection installed on each of the applicant's underground storage tanks containing petroleum motor fuel.

The applicant claims the following cost and percentage for the claimed pollution control facility. The applicant provided documentation of cost.

Claimed Facility Cost:	$1,389
Percent Allocable to Pollution Control	100%

3. Procedural Requirements

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

The facility met all statutory deadlines in that:

a. A request for preliminary certification was filed and approval given.

b. Installation of the facility was substantially completed on April 10, 1989 and the application for certification was found to be complete within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

Prior to completing the work claimed, the facility had no spill or overfill prevention system and any spills or overfill of petroleum would run directly into the ground.

Effective December 22, 1988, EPA established a ten year phase-in program for tank owners to upgrade existing underground storage tanks to new tank standards. This includes installing pollution control equipment to provide protection against releases due to corrosion, to prevent spills and release from overfill and to monitor for leaks.

To respond to spill and overfill prevention requirements, the applicant installed EBW 705-5 spill containment manholes with recovery vessels on the petroleum motor fuel underground storage tanks. This equipment meets EPA requirements for spill and overfill prevention.

With respect to the applicant's claimed facility cost of $1,389, the Department determined that all of the costs included in this figure are eligible pursuant to the definition of a pollution control facility in ORS 648.155. A breakdown of the applicant's claimed costs and Department approved costs is shown below.

Facility	Applicant Claimed Costs	Department Approved Costs
3 EBW 705-5 spill containment device(s)	$ 489	$ 489
Installation of device(s)	900	900
Total	$1,389	$1,389
Eligible Facility Cost		$1,389

The applicant did not indicate if any soil assessment or tank testing work was accomplished before undertaking this project. The Department would not expect the company to proceed with the investment if any indication of leaking would have been detected.

The applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current.

b. Eligible Cost Findings

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

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

The claimed facility is intended to prevent spills and to protect from overfills. The applicant states that the fuel captured from overfills can be reused, but adds that the economic gain from such reuse is too small to have an effect.

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

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

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

The methods chosen are acceptable methods for meeting the requirements of federal regulations. Other than different manufacturers of the same equipment, there are no alternatives in meeting this requirement.

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

The applicant claims no savings or increase in costs as a result of the facility installation.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

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

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

5. Summation

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

b. The facility is eligible for final tax credit certification in that the principal purpose of the claimed facilities is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

c. The facility complies with DEQ statutes and rules.

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

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $1,389 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-2556.

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4/13/90

Application No. TC-2559

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Metrofueling, Inc.
PO Box 2099
Salem, OR 97308
Facility No. 6556

The applicant owns and operates a commercial cardlock fueling station at 4860 S. E. 82nd, Portland, Oregon 97266.

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

2. Description of Facility

The claimed pollution control facilities described in this application are EBW 705-5 spill containment manholes with recovery vessels for overfill protection installed on each of the applicant's underground storage tanks containing petroleum motor fuel.

The applicant claims the following cost and percentage for the claimed pollution control facility. The applicant provided documentation of cost.

Claimed Facility Cost:	$1,389
Percent Allocable to Pollution Control	100%

3. Procedural Requirements

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

The facility met all statutory deadlines in that:

a. A request for preliminary certification was filed and approval given.

b. Installation of the facility was substantially completed on April 7, 1989 and the application for certification was found to be complete within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

Prior to completing the work claimed, the facility had no spill or overfill prevention system and any spills or overfill of petroleum would run directly into the ground.

Effective December 22, 1988, EPA established a ten year phase-in program for tank owners to upgrade existing underground storage tanks to new tank standards. This includes installing pollution control equipment to provide protection against releases due to corrosion, to prevent spills and release from overfill and to monitor for leaks.

To respond to spill and overfill prevention requirements, the applicant installed EBW 705-5 spill containment manholes with recovery vessels on the petroleum motor fuel underground storage tanks. This equipment meets EPA requirements for spill and overfill prevention.

With respect to the applicant's claimed facility cost of $1,389, the Department determined that all of the costs included in this figure are eligible pursuant to the definition of a pollution control facility in ORS 648.155. A breakdown of the applicant's claimed costs and Department approved costs is shown below.

Facility	Applicant Claimed Costs	Department Approved Costs
3 EBW 705-5 spill containment device(s)	$ 489	$ 489
Installation of device(s)	900	900
Total	$1,389	$1,389
Eligible Facility Cost		$1,389

The applicant did not indicate if any soil assessment or tank testing work was accomplished before undertaking this project. The Department would not expect the company to proceed with the investment if any indication of leaking would have been detected.

The applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current.

b. Eligible Cost Findings

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

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

The claimed facility is intended to prevent spills and to protect from overfills. The applicant states that the fuel captured from overfills can be reused, but adds that the economic gain from such reuse is too small to have an effect.

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

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

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

The methods chosen are acceptable methods for meeting the requirements of federal regulations. Other than different manufacturers of the same equipment, there are no alternatives in meeting this requirement.

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

The applicant claims no savings or increase in costs as a result of the facility installation.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

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

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

5. Summation

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

b. The facility is eligible for final tax credit certification in that the principal purpose of the claimed facilities is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

c. The facility complies with DEQ statutes and rules.

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

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $1,389 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-2559.

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4/16/90

Application No. TC-2561

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Metrofueling, Inc.
PO Box 2099
Salem, OR 97308
Facility No. 6571

The applicant owns and operates a commercial cardlock fueling station at 5000 N. Basin, Portland, Oregon 97217.

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

2. Description of Facility

The claimed pollution control facilities described in this application are EBW 705-5 spill containment manholes with recovery vessels for overfill protection installed on each of the applicant's underground storage tanks containing petroleum motor fuel.

The applicant claims the following cost and percentage for the claimed pollution control facility. The applicant provided documentation of cost.

Claimed Facility Cost:	$1,852
Percent Allocable to Pollution Control	100%

3. Procedural Requirements

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

The facility met all statutory deadlines in that:

a. A request for preliminary certification was filed and approval given.

b. Installation of the facility was substantially completed on April 13, 1989 and the application for certification was found to be complete within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

Prior to completing the work claimed, the facility had no spill or overfill prevention system and any spills or overfill of petroleum would run directly into the ground.

Effective December 22, 1988, EPA established a ten year phase-in program for tank owners to upgrade existing underground storage tanks to new tank standards. This includes installing pollution control equipment to provide protection against releases due to corrosion, to prevent spills and release from overfill and to monitor for leaks.

To respond to spill and overfill prevention requirements, the applicant installed EBW 705-5 spill containment manholes with recovery vessels on the petroleum motor fuel underground storage tanks. This equipment meets EPA requirements for spill and overfill prevention.

With respect to the applicant's claimed facility cost of $1,852, the Department determined that all of the costs included in this figure are eligible pursuant to the definition of a pollution control facility in ORS 648.155. A breakdown of the applicant's claimed costs and Department approved costs is shown below.

Facility	Applicant Claimed Costs	Department Approved Costs
4 EBW 705-5 spill containment device(s)	$ 652	$ 652
Installation of device(s)	1,200	1,200
Total	$1,852	$1,852
Eligible Facility Cost		$1,852

The applicant did not indicate if any soil assessment or tank testing work was accomplished before undertaking this project. The Department would not expect the company to proceed with the investment if any indication of leaking would have been detected.

The applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current.

b. Eligible Cost Findings

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

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

The claimed facility is intended to prevent spills and to protect from overfills. The applicant states that the fuel captured from overfills can be reused, but adds that the economic gain from such reuse is too small to have an effect.

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

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

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

The methods chosen are acceptable methods for meeting the requirements of federal regulations. Other than different manufacturers of the same equipment, there are no alternatives in meeting this requirement.

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

The applicant claims no savings or increase in costs as a result of the facility installation.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

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

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

5. Summation

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

b. The facility is eligible for final tax credit certification in that the principal purpose of the claimed facilities is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

c. The facility complies with DEQ statutes and rules.

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

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $1,852 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-2561.

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4/13/90

Application No. TC-2562

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Metrofueling, Inc.
PO Box 2099
Salem, OR 97308
Facility No. 6591

The applicant owns and operates a commercial cardlock fueling station at 2705 Pacific Highway, Forest Grove, Oregon 97116.

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

2. Description of Facility

The claimed pollution control facilities described in this application are EBW 705-5 spill containment manholes with recovery vessels for overfill protection installed on each of the applicant's underground storage tanks containing petroleum motor fuel.

The applicant claims the following cost and percentage for the claimed pollution control facility. The applicant provided documentation of cost.

Claimed Facility Cost:	$1,852
Percent Allocable to Pollution Control	100%

3. Procedural Requirements

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

The facility met all statutory deadlines in that:

a. A request for preliminary certification was filed and approval given.

b. Installation of the facility was substantially completed on June 20, 1989 and the application for certification was found to be complete within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

Prior to completing the work claimed, the facility had no spill or overfill prevention system and any spills or overfill of petroleum would run directly into the ground.

Effective December 22, 1988, EPA established a ten year phase-in program for tank owners to upgrade existing underground storage tanks to new tank standards. This includes installing pollution control equipment to provide protection against releases due to corrosion, to prevent spills and release from overfill and to monitor for leaks.

To respond to spill and overfill prevention requirements, the applicant installed EBW 705-5 spill containment manholes with recovery vessels on the petroleum motor fuel underground storage tanks. This equipment meets EPA requirements for spill and overfill prevention.

With respect to the applicant's claimed facility cost of $1,852, the Department determined that all of the costs included in this figure are eligible pursuant to the definition of a pollution control facility in ORS 648.155. A breakdown of the applicant's claimed costs and Department approved costs is shown below.

Facility	Applicant Claimed Costs	Department Approved Costs
4 EBW 705-5 spill containment device(s)	$ 652	$ 652
Installation of device(s)	1,200	1,200
Total	$1,852	$1,852
Eligible Facility Cost		$1,852

The applicant did not indicate if any soil assessment or tank testing work was accomplished before undertaking this project. The Department would not expect the company to proceed with the investment if any indication of leaking would have been detected.

The applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current.

b. Eligible Cost Findings

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

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

The claimed facility is intended to prevent spills and to protect from overfills. The applicant states that the fuel captured from overfills can be reused, but adds that the economic gain from such reuse is too small to have an effect.

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

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

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

The methods chosen are acceptable methods for meeting the requirements of federal regulations. Other than different manufacturers of the same equipment, there are no alternatives in meeting this requirement.

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

The applicant claims no savings or increase in costs as a result of the facility installation.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

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

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

5. Summation

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

b. The facility is eligible for final tax credit certification in that the principal purpose of the claimed facilities is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16 (g): Installation or construction es which will be used to detect, deter or unauthorized releases."

c. The facili d rules.

d. The portion operly allocable to

5-24,25 1990

6. Director's Recomme

Based upon these fi a Pollution Control Facility Cer ,852 with 100% allocated to po the facility claimed in 1 62.

Barbara J. Anderson:m
HazMat\SM2920
(503) 229-5870
4/13/90

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Truax Petroleum Sales, Inc.
PO Box 2099
Salem, OR 97308
Facility No. 6442

The applicant owns and operates a retail service station at 188 S. W. Washington, Dallas, Oregon 97338.

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

2. Description of Facility

The claimed pollution control facilities described in this application are EBW 705-5 spill containment manholes with recovery vessels for overfill protection installed on each of the applicant's underground storage tanks containing petroleum motor fuel.

The applicant claims the following cost and percentage for the claimed pollution control facility. The applicant provided documentation of cost.

Claimed Facility Cost:	$926
Percent Allocable to Pollution Control	100%

3. Procedural Requirements

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

The facility met all statutory deadlines in that:

a. A request for preliminary certification was filed and approval given.

b. Installation of the facility was substantially completed on April 14, 1989 and the application for certification was found to be complete within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

Prior to completing the work claimed, the facility had no spill or overfill prevention system and any spills or overfill of petroleum would run directly into the ground.

Effective December 22, 1988, EPA established a ten year phase-in program for tank owners to upgrade existing underground storage tanks to new tank standards. This includes installing pollution control equipment to provide protection against releases due to corrosion, to prevent spills and release from overfill and to monitor for leaks.

To respond to spill and overfill prevention requirements, the applicant installed EBW 705-5 spill containment manholes with recovery vessels on the petroleum motor fuel underground storage tanks. This equipment meets EPA requirements for spill and overfill prevention.

With respect to the applicant's claimed facility cost of $926, the Department determined that all of the costs included in this figure are eligible pursuant to the definition of a pollution control facility in ORS 648.155. A breakdown of the applicant's claimed costs and Department approved costs is shown below.

Facility	Applicant Claimed Costs	Department Approved Costs
3 EBW 705-5 spill containment device(s)	$ 326	$ 326
Installation of device(s)	600	600
Total	$ 926	$ 926
Eligible Facility Cost		$ 926

The applicant did not indicate if any soil assessment or tank testing work was accomplished before undertaking this project. The Department would not expect the company to proceed with the investment if any indication of leaking would have been detected.

The applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current.

b. Eligible Cost Findings

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

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

The claimed facility is intended to prevent spills and to protect from overfills. The applicant states that the fuel captured from overfills can be reused, but adds that the economic gain from such reuse is too small to have an effect.

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

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

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

The methods chosen are acceptable methods for meeting the requirements of federal regulations. Other than different manufacturers of the same equipment, there are no alternatives in meeting this requirement.

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

The applicant claims no savings or increase in costs as a result of the facility installation.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

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

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

5. Summation

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

b. The facility is eligible for final tax credit certification in that the principal purpose of the claimed facilities is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

c. The facility complies with DEQ statutes and rules.

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

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $926 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-2565.

Barbara J. Anderson:m
HazMat\SM2919
(503) 229-5870
4/13/90

Application No. TC-2566

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Truax Petroleum Sales, Inc.
PO Box 2099
Salem, OR 97308
Facility No. 3611

The applicant owns and operates a retail service station at 686 N. 2nd, Jefferson, Oregon 97352.

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

2. Description of Facility

The claimed pollution control facilities described in this application are EBW 705-5 spill containment manholes with recovery vessels for overfill protection installed on each of the applicant's underground storage tanks containing petroleum motor fuel.

The applicant claims the following cost and percentage for the claimed pollution control facility. The applicant provided documentation of cost.

Claimed Facility Cost:	$463
Percent Allocable to Pollution Control	100%

3. Procedural Requirements

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

The facility met all statutory deadlines in that:

a. A request for preliminary certification was filed and approval given.

b. Installation of the facility was substantially completed on April 6, 1989 and the application for certification was found to be complete within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

Prior to completing the work claimed, the facility had no spill or overfill prevention system and any spills or overfill of petroleum would run directly into the ground.

Effective December 22, 1988, EPA established a ten year phase-in program for tank owners to upgrade existing underground storage tanks to new tank standards. This includes installing pollution control equipment to provide protection against releases due to corrosion, to prevent spills and release from overfill and to monitor for leaks.

To respond to spill and overfill prevention requirements, the applicant installed EBW 705-5 spill containment manholes with recovery vessels on the petroleum motor fuel underground storage tanks. This equipment meets EPA requirements for spill and overfill prevention.

With respect to the applicant's claimed facility cost of $463, the Department determined that all of the costs included in this figure are eligible pursuant to the definition of a pollution control facility in ORS 648.155. A breakdown of the applicant's claimed costs and Department approved costs is shown below.

Facility	Applicant Claimed Costs	Department Approved Costs
1 EBW 705-5 spill containment device(s)	$163	$163
Installation of device(s)	300	300
Total	$463	$463
Eligible Facility Cost		$463

The applicant did not indicate if any soil assessment or tank testing work was accomplished before undertaking this project. The Department would not expect the company to proceed with the investment if any indication of leaking would have been detected.

The applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current.

b. Eligible Cost Findings

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

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

The claimed facility is intended to prevent spills and to protect from overfills. The applicant states that the fuel captured from overfills can be reused, but adds that the economic gain from such reuse is too small to have an effect.

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

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

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

The methods chosen are acceptable methods for meeting the requirements of federal regulations. Other than different manufacturers of the same equipment, there are no alternatives in meeting this requirement.

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

The applicant claims no savings or increase in costs as a result of the facility installation.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

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

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

5. Summation

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

b. The facility is eligible for final tax credit certification in that the principal purpose of the claimed facilities is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

c. The facility complies with DEQ statutes and rules.

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

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $463 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-2566.

Barbara J. Anderson:m
HazMat\SM2918
(503) 229-5870
4/13/90

Application No. TC-2567

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Truax Petroleum Sales, Inc.
PO Box 2099
Salem, OR 97308
Facility No. 6443

The applicant owns and operates a retail service station at 2485 Mission Street S. E., Salem, Oregon 97301.

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

2. Description of Facility

The claimed pollution control facilities described in this application are EBW 705-5 spill containment manholes with recovery vessels for overfill protection installed on each of the applicant's underground storage tanks containing petroleum motor fuel.

The applicant claims the following cost and percentage for the claimed pollution control facility. The applicant provided documentation of cost.

Claimed Facility Cost:	$1,852
Percent Allocable to Pollution Control	100%

3. Procedural Requirements

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

The facility met all statutory deadlines in that:

a. A request for preliminary certification was filed and approval given.

b. Installation of the facility was substantially completed on February 1, 1989 and the application for certification was found to be complete within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental

Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

Prior to completing the work claimed, the facility had no spill or overfill prevention system and any spills or overfill of petroleum would run directly into the ground.

Effective December 22, 1988, EPA established a ten year phase-in program for tank owners to upgrade existing underground storage tanks to new tank standards. This includes installing pollution control equipment to provide protection against releases due to corrosion, to prevent spills and release from overfill and to monitor for leaks.

To respond to spill and overfill prevention requirements, the applicant installed EBW 705-5 spill containment manholes with recovery vessels on the petroleum motor fuel underground storage tanks. This equipment meets EPA requirements for spill and overfill prevention.

With respect to the applicant's claimed facility cost of $1,852, the Department determined that all of the costs included in this figure are eligible pursuant to the definition of a pollution control facility in ORS 648.155. A breakdown of the applicant's claimed costs and Department approved costs is shown below.

Facility	Applicant Claimed Costs	Department Approved Costs
4 EBW 705-5 spill containment device(s)	$ 652	$ 652
Installation of device(s)	1,200	1,200
Total	$1,852	$1,852
Eligible Facility Cost		$1,852

The applicant did not indicate if any soil assessment or tank testing work was accomplished before undertaking this project. The Department would not expect the company to proceed with the investment if any indication of leaking would have been detected.

The applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current.

b. Eligible Cost Findings

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

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

The claimed facility is intended to prevent spills and to protect from overfills. The applicant states that the fuel captured from overfills can be reused, but adds that the economic gain from such reuse is too small to have an effect.

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

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

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

The methods chosen are acceptable methods for meeting the requirements of federal regulations. Other than different manufacturers of the same equipment, there are no alternatives in meeting this requirement.

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

The applicant claims no savings or increase in costs as a result of the facility installation.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

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

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

5. Summation

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

b. The facility is eligible for final tax credit certification in that the principal purpose of the claimed facilities is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

c. The facility complies with DEQ statutes and rules.

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

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $1,852 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-2567.

Barbara J. Anderson:m
HazMat\SM2917
(503) 229-5870
4/13/90

Application No. TC-2568

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Truax Petroleum Sales, Inc.
PO Box 2099
Salem, OR 97308
Facility No. 6439

The applicant owns and operates a retail service station at 3220 Liberty Road S. E., Salem, Oregon 97302.

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

2. Description of Facility

The claimed pollution control facilities described in this application are EBW 705-5 spill containment manholes with recovery vessels for overfill protection installed on each of the applicant's underground storage tanks containing petroleum motor fuel.

The applicant claims the following cost and percentage for the claimed pollution control facility. The applicant provided documentation of cost.

Claimed Facility Cost:	$1,389
Percent Allocable to Pollution Control	100%

3. Procedural Requirements

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

The facility met all statutory deadlines in that:

a. A request for preliminary certification was filed and approval given.

b. Installation of the facility was substantially completed on February 1, 1989 and the application for certification was found to be complete within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

Prior to completing the work claimed, the facility had no spill or overfill prevention system and any spills or overfill of petroleum would run directly into the ground.

Effective December 22, 1988, EPA established a ten year phase-in program for tank owners to upgrade existing underground storage tanks to new tank standards. This includes installing pollution control equipment to provide protection against releases due to corrosion, to prevent spills and release from overfill and to monitor for leaks.

To respond to spill and overfill prevention requirements, the applicant installed EBW 705-5 spill containment manholes with recovery vessels on the petroleum motor fuel underground storage tanks. This equipment meets EPA requirements for spill and overfill prevention.

With respect to the applicant's claimed facility cost of $1,389, the Department determined that all of the costs included in this figure are eligible pursuant to the definition of a pollution control facility in ORS 648.155. A breakdown of the applicant's claimed costs and Department approved costs is shown below.

Facility	Applicant Claimed Costs	Department Approved Costs
3 EBW 705-5 spill containment device(s)	$ 489	$ 489
Installation of device(s)	900	900
Total	$1,389	$1,389
Eligible Facility Cost		$1,389

The applicant did not indicate if any soil assessment or tank testing work was accomplished before undertaking this project. The Department would not expect the company to proceed with the investment if any indication of leaking would have been detected.

The applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current.

b. Eligible Cost Findings

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

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

The claimed facility is intended to prevent spills and to protect from overfills. The applicant states that the fuel captured from overfills can be reused, but adds that the economic gain from such reuse is too small to have an effect.

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

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

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

The methods chosen are acceptable methods for meeting the requirements of federal regulations. Other than different manufacturers of the same equipment, there are no alternatives in meeting this requirement.

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

The applicant claims no savings or increase in costs as a result of the facility installation.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

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

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

5. Summation

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

b. The facility is eligible for final tax credit certification in that the principal purpose of the claimed facilities is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

c. The facility complies with DEQ statutes and rules.

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

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $1,389 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-2568.

Barbara J. Anderson:m
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(503) 229-5870
4/16/90

Application No. TC-2569

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Pride of Oregon
PO Box 2099
Salem, OR 97308
Facility No. 8491

The applicant owns and operates a retail service station at 4292 Liberty Road South, Salem, Oregon 97302.

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

2. Description of Facility

The claimed pollution control facilities described in this application are EBW 705-5 spill containment manholes with recovery vessels for overfill protection installed on each of the applicant's underground storage tanks containing petroleum motor fuel.

The applicant claims the following cost and percentage for the claimed pollution control facility. The applicant provided documentation of cost.

Claimed Facility Cost:	$1,852
Percent Allocable to Pollution Control	100%

3. Procedural Requirements

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

The facility met all statutory deadlines in that:

a. A request for preliminary certification was filed and approval given.

b. Installation of the facility was substantially completed on February 1, 1989 and the application for certification was found to be complete within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

Prior to completing the work claimed, the facility had no spill or overfill prevention system and any spills or overfill of petroleum would run directly into the ground.

Effective December 22, 1988, EPA established a ten year phase-in program for tank owners to upgrade existing underground storage tanks to new tank standards. This includes installing pollution control equipment to provide protection against releases due to corrosion, to prevent spills and release from overfill and to monitor for leaks.

To respond to spill and overfill prevention requirements, the applicant installed EBW 705-5 spill containment manholes with recovery vessels on the petroleum motor fuel underground storage tanks. This equipment meets EPA requirements for spill and overfill prevention.

With respect to the applicant's claimed facility cost of $1,852, the Department determined that all of the costs included in this figure are eligible pursuant to the definition of a pollution control facility in ORS 648.155. A breakdown of the applicant's claimed costs and Department approved costs is shown below.

Facility	Applicant Claimed Costs	Department Approved Costs
4 EBW 705-5 spill containment device(s)	$ 652	$ 652
Installation of device(s)	1,200	1,200
Total	$1,852	$1,852
Eligible Facility Cost		$1,852

The applicant did not indicate if any soil assessment or tank testing work was accomplished before undertaking this project. The Department would not expect the company to proceed with the investment if any indication of leaking would have been detected.

The applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current.

b. Eligible Cost Findings

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

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

The claimed facility is intended to prevent spills and to protect from overfills. The applicant states that the fuel captured from overfills can be reused, but adds that the economic gain from such reuse is too small to have an effect.

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

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

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

The methods chosen are acceptable methods for meeting the requirements of federal regulations. Other than different manufacturers of the same equipment, there are no alternatives in meeting this requirement.

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

The applicant claims no savings or increase in costs as a result of the facility installation.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

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

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

5. Summation

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

b. The facility is eligible for final tax credit certification in that the principal purpose of the claimed facilities is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

c. The facility complies with DEQ statutes and rules.

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

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $1,852 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-2569.

Barbara J. Anderson:m
HazMat\SM2949
(503) 229-5870
4/17/90

Application No. TC-2570

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Pride of Oregon
PO Box 2099
Salem, OR 97308
Facility No. 3608

The applicant owns and operates a retail service station at 382 N. Santiam Highway, Mill City, Oregon 97360.

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

2. Description of Facility

The claimed pollution control facilities described in this application are EBW 705-5 spill containment manholes with recovery vessels for overfill protection installed on each of the applicant's underground storage tanks containing petroleum motor fuel.

The applicant claims the following cost and percentage for the claimed pollution control facility. The applicant provided documentation of cost.

Claimed Facility Cost:	$2,315
Percent Allocable to Pollution Control	100%

3. Procedural Requirements

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

The facility met all statutory deadlines in that:

a. A request for preliminary certification was filed and approval given.

b. Installation of the facility was substantially completed on April 13, 1989 and the application for certification was found to be complete within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

Prior to completing the work claimed, the facility had no spill or overfill prevention system and any spills or overfill of petroleum would run directly into the ground.

Effective December 22, 1988, EPA established a ten year phase-in program for tank owners to upgrade existing underground storage tanks to new tank standards. This includes installing pollution control equipment to provide protection against releases due to corrosion, to prevent spills and release from overfill and to monitor for leaks.

To respond to spill and overfill prevention requirements, the applicant installed EBW 705-5 spill containment manholes with recovery vessels on the petroleum motor fuel underground storage tanks. This equipment meets EPA requirements for spill and overfill prevention.

With respect to the applicant's claimed facility cost of $2,315, the Department determined that all of the costs included in this figure are eligible pursuant to the definition of a pollution control facility in ORS 648.155. A breakdown of the applicant's claimed costs and Department approved costs is shown below.

Facility	Applicant Claimed Costs	Department Approved Costs
5 EBW 705-5 spill containment device(s)	$ 815	$ 815
Installation of device(s)	1,500	1,500
Total	$2,315	$2,315
Eligible Facility Cost		$2,315

The applicant did not indicate if any soil assessment or tank testing work was accomplished before undertaking this project. The Department would not expect the company to proceed with the investment if any indication of leaking would have been detected.

The applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current.

b. Eligible Cost Findings

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

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

   The claimed facility is intended to prevent spills and to protect from overfills. The applicant states that the fuel captured from overfills can be reused, but adds that the economic gain from such reuse is too small to have an effect.

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

   There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

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

   The methods chosen are acceptable methods for meeting the requirements of federal regulations. Other than different manufacturers of the same equipment, there are no alternatives in meeting this requirement.

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

   The applicant claims no savings or increase in costs as a result of the facility installation.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

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

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

5. Summation

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

b. The facility is eligible for final tax credit certification in that the principal purpose of the claimed facilities is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

c. The facility complies with DEQ statutes and rules.

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

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $2,315 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-2570.

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4/16/90

Application No. TC-2571

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Pride of Oregon
PO Box 2099
Salem, OR 97308
Facility No. 3609

The applicant owns and operates a retail service station at 789 N. Third Avenue, Stayton, Oregon 97383.

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

2. Description of Facility

The claimed pollution control facilities described in this application are EBW 705-5 spill containment manholes with recovery vessels for overfill protection installed on each of the applicant's underground storage tanks containing petroleum motor fuel.

The applicant claims the following cost and percentage for the claimed pollution control facility. The applicant provided documentation of cost.

Claimed Facility Cost:	$2,315
Percent Allocable to Pollution Control	100%

3. Procedural Requirements

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

The facility met all statutory deadlines in that:

a. A request for preliminary certification was filed and approval given.

b. Installation of the facility was substantially completed on April 18, 1989 and the application for certification was found to be complete within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

Prior to completing the work claimed, the facility had no spill or overfill prevention system and any spills or overfill of petroleum would run directly into the ground.

Effective December 22, 1988, EPA established a ten year phase-in program for tank owners to upgrade existing underground storage tanks to new tank standards. This includes installing pollution control equipment to provide protection against releases due to corrosion, to prevent spills and release from overfill and to monitor for leaks.

To respond to spill and overfill prevention requirements, the applicant installed EBW 705-5 spill containment manholes with recovery vessels on the petroleum motor fuel underground storage tanks. This equipment meets EPA requirements for spill and overfill prevention.

With respect to the applicant's claimed facility cost of $2,315, the Department determined that all of the costs included in this figure are eligible pursuant to the definition of a pollution control facility in ORS 648.155. A breakdown of the applicant's claimed costs and Department approved costs is shown below.

Facility	Applicant Claimed Costs	Department Approved Costs
5 EBW 705-5 spill containment device(s)	$ 815	$ 815
Installation of device(s)	1,500	1,500
Total	$2,315	$2,315
Eligible Facility Cost		$2,315

The applicant did not indicate if any soil assessment or tank testing work was accomplished before undertaking this project. The Department would not expect the company to proceed with the investment if any indication of leaking would have been detected.

The applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current.

b. Eligible Cost Findings

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

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

The claimed facility is intended to prevent spills and to protect from overfills. The applicant states that the fuel captured from overfills can be reused, but adds that the economic gain from such reuse is too small to have an effect.

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

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

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

The methods chosen are acceptable methods for meeting the requirements of federal regulations. Other than different manufacturers of the same equipment, there are no alternatives in meeting this requirement.

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

The applicant claims no savings or increase in costs as a result of the facility installation.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

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

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

5. Summation

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

b. The facility is eligible for final tax credit certification in that the principal purpose of the claimed facilities is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

c. The facility complies with DEQ statutes and rules.

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

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $2,315 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-2571.

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4/16/90

Application No. TC-2573

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Pride of Oregon
PO Box 2099
Salem, OR 97308
Facility No. 7069

The applicant owns and operates a retail service station at 115 S. W. Arrow Street, Waldport, Oregon 97394.

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

2. Description of Facility

The claimed pollution control facilities described in this application are EBW 705-5 spill containment manholes with recovery vessels for overfill protection installed on each of the applicant's underground storage tanks containing petroleum motor fuel.

The applicant claims the following cost and percentage for the claimed pollution control facility. The applicant provided documentation of cost.

Claimed Facility Cost:	$1,389
Percent Allocable to Pollution Control	100%

3. Procedural Requirements

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

The facility met all statutory deadlines in that:

a. A request for preliminary certification was filed and approval given.

b. Installation of the facility was substantially completed on June 28, 1989 and the application for certification was found to be complete within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

Prior to completing the work claimed, the facility had no spill or overfill prevention system and any spills or overfill of petroleum would run directly into the ground.

Effective December 22, 1988, EPA established a ten year phase-in program for tank owners to upgrade existing underground storage tanks to new tank standards. This includes installing pollution control equipment to provide protection against releases due to corrosion, to prevent spills and release from overfill and to monitor for leaks.

To respond to spill and overfill prevention requirements, the applicant installed EBW 705-5 spill containment manholes with recovery vessels on the petroleum motor fuel underground storage tanks. This equipment meets EPA requirements for spill and overfill prevention.

With respect to the applicant's claimed facility cost of $1,389, the Department determined that all of the costs included in this figure are eligible pursuant to the definition of a pollution control facility in ORS 648.155. A breakdown of the applicant's claimed costs and Department approved costs is shown below.

Facility	Applicant Claimed Costs	Department Approved Costs
3 EBW 705-5 spill containment device(s)	$ 489	$ 489
Installation of device(s)	900	900
Total	$1,389	$1,389
Eligible Facility Cost		$1,389

The applicant did not indicate if any soil assessment or tank testing work was accomplished before undertaking this project. The Department would not expect the company to proceed with the investment if any indication of leaking would have been detected.

The applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current.

b. Eligible Cost Findings

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

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

The claimed facility is intended to prevent spills and to protect from overfills. The applicant states that the fuel captured from overfills can be reused, but adds that the economic gain from such reuse is too small to have an effect.

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

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

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

The methods chosen are acceptable methods for meeting the requirements of federal regulations. Other than different manufacturers of the same equipment, there are no alternatives in meeting this requirement.

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

The applicant claims no savings or increase in costs as a result of the facility installation.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

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

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

5. Summation

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

b. The facility is eligible for final tax credit certification in that the principal purpose of the claimed facilities is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

c. The facility complies with DEQ statutes and rules.

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

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $1,389 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-2573.

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4/16/90

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Harris Enterprises, Inc.
1717 SW Madison
Portland, OR 97205
Facility No. 6556

The applicant owns and operates a retail service station at 4860 S. E. 82nd, Portland, Oregon 97266.

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

2. Description of Facility

The claimed pollution control facilities described in this application are EBW 705-5 spill containment manholes with recovery vessels for overfill protection installed on each of the applicant's underground storage tanks containing petroleum motor fuel.

The applicant claims the following cost and percentage for the claimed pollution control facility. The applicant provided documentation of cost.

Claimed Facility Cost:	$2,315
Percent Allocable to Pollution Control	100%

3. Procedural Requirements

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

The facility met all statutory deadlines in that:

a. A request for preliminary certification was filed and approval given.

b. Installation of the facility was substantially completed on April 8, 1989 and the application for certification was found to be complete within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

Prior to completing the work claimed, the facility had no spill or overfill prevention system and any spills or overfill of petroleum would run directly into the ground.

Effective December 22, 1988, EPA established a ten year phase-in program for tank owners to upgrade existing underground storage tanks to new tank standards. This includes installing pollution control equipment to provide protection against releases due to corrosion, to prevent spills and release from overfill and to monitor for leaks.

To respond to spill and overfill prevention requirements, the applicant installed EBW 705-5 spill containment manholes with recovery vessels on the petroleum motor fuel underground storage tanks. This equipment meets EPA requirements for spill and overfill prevention.

With respect to the applicant's claimed facility cost of $2,315, the Department determined that all of the costs included in this figure are eligible pursuant to the definition of a pollution control facility in ORS 648.155. A breakdown of the applicant's claimed costs and Department approved costs is shown below.

Facility	Applicant Claimed Costs	Department Approved Costs
5 EBW 705-5 spill containment device(s)	$ 815	$ 815
Installation of device(s)	1,500	1,500
Total	$2,315	$2,315
Eligible Facility Cost		$2,315

The applicant did not indicate if any soil assessment or tank testing work was accomplished before undertaking this project. The Department would not expect the company to proceed with the investment if any indication of leaking would have been detected.

The applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current.

b. Eligible Cost Findings

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

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

The claimed facility is intended to prevent spills and to protect from overfills. The applicant states that the fuel captured from overfills can be reused, but adds that the economic gain from such reuse is too small to have an effect.

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

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

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

The methods chosen are acceptable methods for meeting the requirements of federal regulations. Other than different manufacturers of the same equipment, there are no alternatives in meeting this requirement.

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

The applicant claims no savings or increase in costs as a result of the facility installation.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

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

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

5. Summation

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

b. The facility is eligible for final tax credit certification in that the principal purpose of the claimed facilities is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

c. The facility complies with DEQ statutes and rules.

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

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $2,315 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-2578.

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4/18/90

Application No. TC-2579

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Harris Enterprises, Inc.
1717 SW Madison
Portland, OR 97205
Facility No. 7158

The applicant owns and operates a retail service station at 1545 E. Pacific Boulevard, Albany, Oregon 97321.

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

2. Description of Facility

The claimed pollution control facilities described in this application are EBW 705-5 spill containment manholes with recovery vessels for overfill protection installed on each of the applicant's underground storage tanks containing petroleum motor fuel.

The applicant claims the following cost and percentage for the claimed pollution control facility. The applicant provided documentation of cost.

Claimed Facility Cost:	$1,389
Percent Allocable to Pollution Control	100%

3. Procedural Requirements

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

The facility met all statutory deadlines in that:

a. A request for preliminary certification was filed and approval given.

b. Installation of the facility was substantially completed on March 5, 1989 and the application for certification was found to be complete within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

Prior to completing the work claimed, the facility had no spill or overfill prevention system and any spills or overfill of petroleum would run directly into the ground.

Effective December 22, 1988, EPA established a ten year phase-in program for tank owners to upgrade existing underground storage tanks to new tank standards. This includes installing pollution control equipment to provide protection against releases due to corrosion, to prevent spills and release from overfill and to monitor for leaks.

To respond to spill and overfill prevention requirements, the applicant installed EBW 705-5 spill containment manholes with recovery vessels on the petroleum motor fuel underground storage tanks. This equipment meets EPA requirements for spill and overfill prevention.

With respect to the applicant's claimed facility cost of $1,389, the Department determined that all of the costs included in this figure are eligible pursuant to the definition of a pollution control facility in ORS 648.155. A breakdown of the applicant's claimed costs and Department approved costs is shown below.

Facility	Applicant Claimed Costs	Department Approved Costs
3 EBW 705-5 spill containment device(s)	$ 489	$ 489
Installation of device(s)	900	900
Total	$1,389	$1,389
Eligible Facility Cost		$1,389

The applicant did not indicate if any soil assessment or tank testing work was accomplished before undertaking this project. The Department would not expect the company to proceed with the investment if any indication of leaking would have been detected.

The applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current.

b. Eligible Cost Findings

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

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

The claimed facility is intended to prevent spills and to protect from overfills. The applicant states that the fuel captured from overfills can be reused, but adds that the economic gain from such reuse is too small to have an effect.

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

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

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

The methods chosen are acceptable methods for meeting the requirements of federal regulations. Other than different manufacturers of the same equipment, there are no alternatives in meeting this requirement.

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

The applicant claims no savings or increase in costs as a result of the facility installation.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

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

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

5. Summation

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

b. The facility is eligible for final tax credit certification in that the principal purpose of the claimed facilities is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

c. The facility complies with DEQ statutes and rules.

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

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $1,389 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-2579.

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4/16/90

Application No. TC-2580

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Harris Enterprises, Inc.
1717 SW Madison
Portland, OR 97205
Facility No. 6660

The applicant owns and operates a commercial fueling station at 1717 S. W. Madison, Portland, Oregon 97205.

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

2. Description of Facility

The claimed pollution control facilities described in this application are EBW 705-5 spill containment manholes with recovery vessels for overfill protection installed on each of the applicant's underground storage tanks containing petroleum motor fuel.

The applicant claims the following cost and percentage for the claimed pollution control facility. The applicant provided documentation of cost.

Claimed Facility Cost:	$1,852
Percent Allocable to Pollution Control	100%

3. Procedural Requirements

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

The facility met all statutory deadlines in that:

a. A request for preliminary certification was filed and approval given.

b. Installation of the facility was substantially completed on June 24, 1989 and the application for certification was found to be complete within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

Prior to completing the work claimed, the facility had no spill or overfill prevention system and any spills or overfill of petroleum would run directly into the ground.

Effective December 22, 1988, EPA established a ten year phase-in program for tank owners to upgrade existing underground storage tanks to new tank standards. This includes installing pollution control equipment to provide protection against releases due to corrosion, to prevent spills and release from overfill and to monitor for leaks.

To respond to spill and overfill prevention requirements, the applicant installed EBW 705-5 spill containment manholes with recovery vessels on the petroleum motor fuel underground storage tanks. This equipment meets EPA requirements for spill and overfill prevention.

With respect to the applicant's claimed facility cost of $1,852, the Department determined that all of the costs included in this figure are eligible pursuant to the definition of a pollution control facility in ORS 648.155. A breakdown of the applicant's claimed costs and Department approved costs is shown below.

Facility	Applicant Claimed Costs	Department Approved Costs
4 EBW 705-5 spill containment device(s)	$ 652	$ 652
Installation of device(s)	1,200	1,200
Total	$1,852	$1,852
Eligible Facility Cost		$1,852

The applicant did not indicate if any soil assessment or tank testing work was accomplished before undertaking this project. The Department would not expect the company to proceed with the investment if any indication of leaking would have been detected.

The applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current.

b. Eligible Cost Findings

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

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

The claimed facility is intended to prevent spills and to protect from overfills. The applicant states that the fuel captured from overfills can be reused, but adds that the economic gain from such reuse is too small to have an effect.

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

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

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

The methods chosen are acceptable methods for meeting the requirements of federal regulations. Other than different manufacturers of the same equipment, there are no alternatives in meeting this requirement.

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

The applicant claims no savings or increase in costs as a result of the facility installation.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

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

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

5. Summation

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

b. The facility is eligible for final tax credit certification in that the principal purpose of the claimed facilities is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

c. The facility complies with DEQ statutes and rules.

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

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $1,852 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-2580.

Barbara J. Anderson:m
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4/17/90

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Harris Enterprises, Inc.
1717 SW Madison
Portland, OR 97205
Facility No. 7156

The applicant owns and operates a retail service station at 1680 S. W. Third Avenue, Corvallis, Oregon 97330.

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

2. Description of Facility

The claimed pollution control facilities described in this application are EBW 705-5 spill containment manholes with recovery vessels for overfill protection installed on each of the applicant's underground storage tanks containing petroleum motor fuel.

The applicant claims the following cost and percentage for the claimed pollution control facility. The applicant provided documentation of cost.

Claimed Facility Cost:	$1,852
Percent Allocable to Pollution Control	100%

3. Procedural Requirements

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

The facility met all statutory deadlines in that:

a. A request for preliminary certification was filed and approval given.

b. Installation of the facility was substantially completed on April 19, 1989 and the application for certification was found to be complete within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

Prior to completing the work claimed, the facility had no spill or overfill prevention system and any spills or overfill of petroleum would run directly into the ground.

Effective December 22, 1988, EPA established a ten year phase-in program for tank owners to upgrade existing underground storage tanks to new tank standards. This includes installing pollution control equipment to provide protection against releases due to corrosion, to prevent spills and release from overfill and to monitor for leaks.

To respond to spill and overfill prevention requirements, the applicant installed EBW 705-5 spill containment manholes with recovery vessels on the petroleum motor fuel underground storage tanks. This equipment meets EPA requirements for spill and overfill prevention.

With respect to the applicant's claimed facility cost of $1,852, the Department determined that all of the costs included in this figure are eligible pursuant to the definition of a pollution control facility in ORS 648.155. A breakdown of the applicant's claimed costs and Department approved costs is shown below.

Facility	Applicant Claimed Costs	Department Approved Costs
4 EBW 705-5 spill containment device(s)	$ 652	$ 652
Installation of device(s)	1,200	1,200
Total	$1,852	$1,852
Eligible Facility Cost		$1,852

The applicant did not indicate if any soil assessment or tank testing work was accomplished before undertaking this project. The Department would not expect the company to proceed with the investment if any indication of leaking would have been detected.

The applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current.

b. Eligible Cost Findings

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

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

The claimed facility is intended to prevent spills and to protect from overfills. The applicant states that the fuel captured from overfills can be reused, but adds that the economic gain from such reuse is too small to have an effect.

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

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

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

The methods chosen are acceptable methods for meeting the requirements of federal regulations. Other than different manufacturers of the same equipment, there are no alternatives in meeting this requirement.

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

The applicant claims no savings or increase in costs as a result of the facility installation.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

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

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

5. Summation

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

b. The facility is eligible for final tax credit certification in that the principal purpose of the claimed facilities is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

c. The facility complies with DEQ statutes and rules.

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

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $1,852 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-2581.

Barbara J. Anderson:m
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4/17/90

Application No. TC-2582

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Harris Enterprises, Inc.
1717 SW Madison
Portland, OR 97205
Facility No. 6607

The applicant owns and operates a retail service station at 120 N. Pine, Sherwood, Oregon 97140.

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

2. Description of Facility

The claimed pollution control facilities described in this application are EBW 705-5 spill containment manholes with recovery vessels for overfill protection installed on each of the applicant's underground storage tanks containing petroleum motor fuel.

The applicant claims the following cost and percentage for the claimed pollution control facility. The applicant provided documentation of cost.

Claimed Facility Cost:	$1,389
Percent Allocable to Pollution Control	100%

3. Procedural Requirements

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

The facility met all statutory deadlines in that:

a. A request for preliminary certification was filed and approval given.

b. Installation of the facility was substantially completed on May 18, 1989 and the application for certification was found to be complete within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

Prior to completing the work claimed, the facility had no spill or overfill prevention system and any spills or overfill of petroleum would run directly into the ground.

Effective December 22, 1988, EPA established a ten year phase-in program for tank owners to upgrade existing underground storage tanks to new tank standards. This includes installing pollution control equipment to provide protection against releases due to corrosion, to prevent spills and release from overfill and to monitor for leaks.

To respond to spill and overfill prevention requirements, the applicant installed EBW 705-5 spill containment manholes with recovery vessels on the petroleum motor fuel underground storage tanks. This equipment meets EPA requirements for spill and overfill prevention.

With respect to the applicant's claimed facility cost of $1,389, the Department determined that all of the costs included in this figure are eligible pursuant to the definition of a pollution control facility in ORS 648.155. A breakdown of the applicant's claimed costs and Department approved costs is shown below.

Facility	Applicant Claimed Costs	Department Approved Costs
3 EBW 705-5 spill containment device(s)	$ 489	$ 489
Installation of device(s)	900	900
Total	$1,389	$1,389
Eligible Facility Cost		$1,389

The applicant did not indicate if any soil assessment or tank testing work was accomplished before undertaking this project. The Department would not expect the company to proceed with the investment if any indication of leaking would have been detected.

The applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current.

b. Eligible Cost Findings

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

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

The claimed facility is intended to prevent spills and to protect from overfills. The applicant states that the fuel captured from overfills can be reused, but adds that the economic gain from such reuse is too small to have an effect.

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

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

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

The methods chosen are acceptable methods for meeting the requirements of federal regulations. Other than different manufacturers of the same equipment, there are no alternatives in meeting this requirement.

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

The applicant claims no savings or increase in costs as a result of the facility installation.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

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

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

5. Summation

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

b. The facility is eligible for final tax credit certification in that the principal purpose of the claimed facilities is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

c. The facility complies with DEQ statutes and rules.

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

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $1,389 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-2582.

Barbara J. Anderson:m
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4/18/90

Application No. TC-2583

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Harris Enterprises, Inc.
1717 SW Madison
Portland, OR 97205
Facility No. 6580

The applicant owns and operates a retail service station at 7035 Nyberg Road, Tualatin, Oregon 97062.

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

2. Description of Facility

The claimed pollution control facilities described in this application are EBW 705-5 spill containment manholes with recovery vessels for overfill protection installed on each of the applicant's underground storage tanks containing petroleum motor fuel.

The applicant claims the following cost and percentage for the claimed pollution control facility. The applicant provided documentation of cost.

Claimed Facility Cost:	$1,389
Percent Allocable to Pollution Control	100%

3. Procedural Requirements

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

The facility met all statutory deadlines in that:

a. A request for preliminary certification was filed and approval given.

b. Installation of the facility was substantially completed on March 16, 1989 and the application for certification was found to be complete within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

Prior to completing the work claimed, the facility had no spill or overfill prevention system and any spills or overfill of petroleum would run directly into the ground.

Effective December 22, 1988, EPA established a ten year phase-in program for tank owners to upgrade existing underground storage tanks to new tank standards. This includes installing pollution control equipment to provide protection against releases due to corrosion, to prevent spills and release from overfill and to monitor for leaks.

To respond to spill and overfill prevention requirements, the applicant installed EBW 705-5 spill containment manholes with recovery vessels on the petroleum motor fuel underground storage tanks. This equipment meets EPA requirements for spill and overfill prevention.

With respect to the applicant's claimed facility cost of $1,389, the Department determined that all of the costs included in this figure are eligible pursuant to the definition of a pollution control facility in ORS 648.155. A breakdown of the applicant's claimed costs and Department approved costs is shown below.

Facility	Applicant Claimed Costs	Department Approved Costs
3 EBW 705-5 spill containment device(s)	$ 489	$ 489
Installation of device(s)	900	900
Total	$1,389	$1,389
Eligible Facility Cost		$1,389

The applicant did not indicate if any soil assessment or tank testing work was accomplished before undertaking this project. The Department would not expect the company to proceed with the investment if any indication of leaking would have been detected.

The applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current.

b. Eligible Cost Findings

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

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

The claimed facility is intended to prevent spills and to protect from overfills. The applicant states that the fuel captured from overfills can be reused, but adds that the economic gain from such reuse is too small to have an effect.

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

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

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

The methods chosen are acceptable methods for meeting the requirements of federal regulations. Other than different manufacturers of the same equipment, there are no alternatives in meeting this requirement.

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

The applicant claims no savings or increase in costs as a result of the facility installation.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

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

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

5. Summation

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

b. The facility is eligible for final tax credit certification in that the principal purpose of the claimed facilities is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

c. The facility complies with DEQ statutes and rules.

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

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $1,389 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-2583.

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4/17/90

Application No. TC-2584

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Harris Enterprises, Inc.
1717 SW Madison
Portland, OR 97205
Facility No. 7160

The applicant owns and operates a retail service station at 4180 Portland Road N. E., Salem, Oregon 97307.

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

2. Description of Facility

The claimed pollution control facilities described in this application are EBW 705-5 spill containment manholes with recovery vessels for overfill protection installed on each of the applicant's underground storage tanks containing petroleum motor fuel.

The applicant claims the following cost and percentage for the claimed pollution control facility. The applicant provided documentation of cost.

Claimed Facility Cost:	$1,852
Percent Allocable to Pollution Control	100%

3. Procedural Requirements

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

The facility met all statutory deadlines in that:

a. A request for preliminary certification was filed and approval given.

b. Installation of the facility was substantially completed on February 2, 1989 and the application for certification was found to be complete within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

Prior to completing the work claimed, the facility had no spill or overfill prevention system and any spills or overfill of petroleum would run directly into the ground.

Effective December 22, 1988, EPA established a ten year phase-in program for tank owners to upgrade existing underground storage tanks to new tank standards. This includes installing pollution control equipment to provide protection against releases due to corrosion, to prevent spills and release from overfill and to monitor for leaks.

To respond to spill and overfill prevention requirements, the applicant installed EBW 705-5 spill containment manholes with recovery vessels on the petroleum motor fuel underground storage tanks. This equipment meets EPA requirements for spill and overfill prevention.

With respect to the applicant's claimed facility cost of $1,852, the Department determined that all of the costs included in this figure are eligible pursuant to the definition of a pollution control facility in ORS 648.155. A breakdown of the applicant's claimed costs and Department approved costs is shown below.

Facility	Applicant Claimed Costs	Department Approved Costs
4 EBW 705-5 spill containment device(s)	$ 652	$ 652
Installation of device(s)	1,200	1,200
Total	$1,852	$1,852
Eligible Facility Cost		$1,852

The applicant did not indicate if any soil assessment or tank testing work was accomplished before undertaking this project. The Department would not expect the company to proceed with the investment if any indication of leaking would have been detected.

The applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current.

b. Eligible Cost Findings

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

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

The claimed facility is intended to prevent spills and to protect from overfills. The applicant states that the fuel captured from overfills can be reused, but adds that the economic gain from such reuse is too small to have an effect.

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

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

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

The methods chosen are acceptable methods for meeting the requirements of federal regulations. Other than different manufacturers of the same equipment, there are no alternatives in meeting this requirement.

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

The applicant claims no savings or increase in costs as a result of the facility installation.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

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

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

5. Summation

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

b. The facility is eligible for final tax credit certification in that the principal purpose of the claimed facilities is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

c. The facility complies with DEQ statutes and rules.

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

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $1,852 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-2584.

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4/16/90

Application No. TC-2585

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Harris Enterprises, Inc.
1717 SW Madison
Portland, OR 97205
Facility No. 7163

The applicant owns and operates a retail service station at 10505 S. W. Hall Boulevard, Tigard, Oregon 97223.

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

2. Description of Facility

The claimed pollution control facilities described in this application are EBW 705-5 spill containment manholes with recovery vessels for overfill protection installed on each of the applicant's underground storage tanks containing petroleum motor fuel.

The applicant claims the following cost and percentage for the claimed pollution control facility. The applicant provided documentation of cost.

Claimed Facility Cost:	$926
Percent Allocable to Pollution Control	100%

3. Procedural Requirements

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

The facility met all statutory deadlines in that:

a. A request for preliminary certification was filed and approval given.

b. Installation of the facility was substantially completed on April 24, 1989 and the application for certification was found to be complete within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

Prior to completing the work claimed, the facility had no spill or overfill prevention system and any spills or overfill of petroleum would run directly into the ground.

Effective December 22, 1988, EPA established a ten year phase-in program for tank owners to upgrade existing underground storage tanks to new tank standards. This includes installing pollution control equipment to provide protection against releases due to corrosion, to prevent spills and release from overfill and to monitor for leaks.

To respond to spill and overfill prevention requirements, the applicant installed EBW 705-5 spill containment manholes with recovery vessels on the petroleum motor fuel underground storage tanks. This equipment meets EPA requirements for spill and overfill prevention.

With respect to the applicant's claimed facility cost of $926, the Department determined that all of the costs included in this figure are eligible pursuant to the definition of a pollution control facility in ORS 648.155. A breakdown of the applicant's claimed costs and Department approved costs is shown below.

Facility	Applicant Claimed Costs	Department Approved Costs
2 EBW 705-5 spill containment device(s)	$326	$326
Installation of device(s)	600	600
Total	$926	$926
Eligible Facility Cost		$926

The applicant did not indicate if any soil assessment or tank testing work was accomplished before undertaking this project. The Department would not expect the company to proceed with the investment if any indication of leaking would have been detected.

The applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current.

b. Eligible Cost Findings

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

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

   The claimed facility is intended to prevent spills and to protect from overfills. The applicant states that the fuel captured from overfills can be reused, but adds that the economic gain from such reuse is too small to have an effect.

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

   There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

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

   The methods chosen are acceptable methods for meeting the requirements of federal regulations. Other than different manufacturers of the same equipment, there are no alternatives in meeting this requirement.

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

   The applicant claims no savings or increase in costs as a result of the facility installation.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

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

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

5. Summation

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

b. The facility is eligible for final tax credit certification in that the principal purpose of the claimed facilities is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil and water. This is accomplished by preventing releases into soil or water. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases."

c. The facility complies with DEQ statutes and rules.

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

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $926 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-2585.

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4/17/90

NEIL GOLDSCHMIDT
GOVERNOR

Environmental Quality Commission

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

REQUEST FOR EQC ACTION

Meeting Date: May 25, 1990
Agenda Item: A-3(a)
Division: Air Quality
Section: Planning & Development

SUBJECT:

Stage II Vapor Recovery for Air Quality Control in the Portland Metropolitan Area

PURPOSE:

Implement underground piping portion of Stage II vapor recovery at gasoline stations in the Portland area.

ACTION REQUESTED:

___ Work Session Discussion
- ___ General Program Background
- ___ Potential Strategy, Policy, or Rules
- ___ Agenda Item ___ for Current Meeting
- ___ Other: (specify)

_X_ Authorize Rulemaking Hearing
___ Adopt Rules

Proposed Rules	Attachment A
Rulemaking Statements	Attachment B
Fiscal and Economic Impact Statement	Attachment C
Public Notice	Attachment D

___ Issue a Contested Case Order
___ Approve a Stipulated Order
___ Enter an Order

Proposed Order	Attachment ___

___ Approve Department Recommendation

___ Variance Request	Attachment ___
___ Exception to Rule	Attachment ___
___ Informational Report	Attachment ___
___ Other: (specify)	Attachment ___

DESCRIPTION OF REQUESTED ACTION:

This report requests authorization to hold a public hearing on proposed underground piping requirements as the first step in implementing Stage II vapor recovery (control of motor vehicle refueling vapors) at gasoline stations in Clackamas, Multnomah and Washington Counties.

The proposed rules would require the installation of Stage II underground piping within 24 months of rule adoption or at the time of compliance with Underground Storage Tank requirements, whichever occurs sooner.

In addition, gasoline stations in these counties that have not already installed Stage I vapor recovery systems (control of tanker truck to storage tank vapors) would be required to do so within the same 24 month or less schedule.

AUTHORITY/NEED FOR ACTION:

___	Required by Statute: _____ Enactment Date: _____	Attachment ___
_X_	Statutory Authority: ORS 468.295	Attachment _E_
___	Pursuant to Rule: _____	Attachment ___
___	Pursuant to Federal Law/Rule: _____	Attachment ___
___	Other:	Attachment ___

_X_ Time Constraints:

Most of the Underground Storage Tank (UST) compliance work will be completed by October 1991. By including the underground piping for Stage II vapor recovery at the same time as UST compliance work, it is expected that the overall cost of the two actions will be reduced.

The Portland-Vancouver area is in marginal compliance with the air quality health standards for ozone. Timely implementation of Stage II vapor recovery, of which underground piping is the first step, is one of the most cost-effective pollution control actions available to the state to prevent future ozone violations.

DEVELOPMENTAL BACKGROUND:

_X_	Advisory Committee Report/Recommendation	Attachment _F_
___	Hearing Officer's Report/Recommendations	Attachment ___
___	Response to Testimony/Comments	Attachment ___

_X_ Prior EQC Agenda Items:

11/30/89 EQC Work Session
01/18/90 EQC Work Session — Attachment G,H

___ Other Related Reports/Rules/Statutes: — Attachment ___

___ Supplemental Background Information — Attachment ___

REGULATED/AFFECTED COMMUNITY CONSTRAINTS/CONSIDERATIONS:

The proposal would affect gasoline stations with an annual gasoline throughput of 120,000 gallons or more (i.e., monthly average throughput of 10,000 gallons or more) in Clackamas, Multnomah and Washington Counties.

The proposed rules would require only the underground piping portion of the Stage II vapor recovery system at this time. The underground piping cost would be substantially lower if done at the time of Underground Storage Tank compliance work than if done separately.

The capital costs for the underground piping at an average 10-nozzle gasoline station are estimated to be as low as $2,000 for straightforward piping installations coordinated with UST compliance work, or as high as $18,000 or more for more difficult piping installations not coordinated with UST compliance work.

Gasoline stations within the Portland-Vancouver Air Quality Maintenance Area (AQMA) were required to install Stage I by April 1981. The proposed rules would require Stage I for gasoline stations outside the AQMA but within the three-county area. The capital costs for Stage I vapor control systems are estimated at $1000 to $2000 per gasoline station.

Additional cost information is included in the Fiscal and Economic Impact Statement (Attachment C).

PROGRAM CONSIDERATIONS:

Costs to the Department of Environmental Quality (DEQ, Department) would fall into five categories:

* Registration of equipment to be regulated;
* Review and/or inspection of installation;
* Education of the regulated community;
* Periodic inspection and/or performance testing;
* Enforcement and follow up inspections.

A stand-alone Stage II Vapor Recovery program operated independently by the Air Quality Division in the Portland metropolitan area would require 2 full-time-equivalent (FTE) positions and an annual budget of $125,000.

Substantial cost savings are possible (as much as 50 percent) if a cooperative approach is taken. This approach would make use of existing programs in the Department of Agriculture Weights & Measures Division (which already inspects metering systems on all retail gasoline pumps), DEQ Underground Storage Tank Program (which already regulates underground gasoline tank installations), and DEQ Regional Operations (which already does inspections and enforcement on many pollution sources). It is expected that the incremental costs associated with an increased workload on these programs would be substantially less than the cost of creating a new program from scratch. The Department intends to pursue the cooperative approach and negotiate the necessary agreements.

Start-up costs could be minimized by phasing in the program over a few years. A program could be started almost immediately by requiring that underground Stage II equipment be installed whenever new tanks are installed (administered by the Underground Storage Tank program). Routine inspection of Stage II equipment would not be required until the time of installation of above-ground Stage II equipment; a schedule for above-ground equipment has not yet been established and would be the subject of separate rulemaking proceedings at a later date.

ALTERNATIVES CONSIDERED BY THE DEPARTMENT:

Several alternatives were evaluated by the Department and the Technical Advisory Committee on Stage I/II Vapor Recovery (Advisory Committee). These alternatives are discussed in some detail in Attachment G. The main alternatives involved program boundaries, station size exemptions, and implementation schedules.

1. The potential boundaries considered were: (a) statewide; (b) western Oregon; (c) Portland area counties (Clackamas, Multnomah, Washington Counties); and (d) Portland-Vancouver Air Quality Maintenance Area (portions of the three counties encompassing the Portland metropolitan area).

2. The station size exemptions considered were: (a) monthly average throughput of less than 40,000 gallons; and (b) monthly average throughput of less than 10,000 gallons.

3. The implementation schedules considered were: (a) expedited schedule (construction to begin as soon as possible after rule adoption); (b) schedule coordinated with Underground Storage Tank compliance work; and (c) indefinite schedule (only if required by EPA).

DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:

The Department concurs with the following recommendations of the Advisory Committee:

The underground piping for Stage II Vapor Recovery should be required to be constructed and set in place at the time of Underground Storage Tank compliance or sooner, as determined through the rulemaking process, but not less than 24 months after rule adoption, at all gasoline refueling stations with an average monthly throughput of greater than 10,000 gallons of gasoline located within the county boundaries of Multnomah, Washington, and Clackamas counties.

Stage I Vapor Recovery should be fully implemented at all remaining gasoline refueling stations within the three counties on the same schedule as the Stage II underground piping.

The requirement for implementation of the above ground components of the Stage II vapor recovery system and full operation of the system should not be adopted until reauthorization of the Clean Air Act and base year considerations have been completed (expected by late 1990). Adoption of the overall Stage II requirements prior to reauthorization of the Clean Air Act may limit the state's flexibility to use the emission reduction credits from Stage II for airshed growth capacity purposes.

The installation of at least the underground piping for Stage II Vapor Recovery should be strongly recommended as a prudent investment outside the Portland metropolitan area for refueling stations with an average monthly throughput of greater than 10,000 gallons of gasoline.

The Department has proposed rules for public hearing consistent with these recommendations.

The proposed program boundary of Clackamas, Multnomah and Washington Counties includes the Portland-Vancouver Air Quality Maintenance Area (AQMA) which has had the highest ozone measurements in Oregon. The three-county boundary is considered more easily and clearly defined than the AQMA.

The State of Washington Department of Ecology and the Southwest Washington Air Pollution Control Authority are responsible for air pollution control in Clark County (the county surrounding Vancouver) which overlaps the AQMA. The State of Washington is also considering Stage II requirements.

The 10,000 gallons per month size cutoff would exempt about 11% of the smallest gasoline stations but would only affect about 1% of the gasoline throughput in the three-county area.

The benefits of Stage II would be lost without Stage I in place; the proposal would require Stage I (at any stations not already having it) on the same schedule as Stage II underground piping.

The proposed implementation schedule would reduce the impact of Stage II capital costs on gasoline station owners by coordination with the Underground Storage Tank compliance work.

CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE POLICY:

The proposed rules are consistent with Goal 3 of the draft Strategic Plan since the ultimate implementation of Stage II vapor recovery would help ensure: air quality standards are maintained in future years; airshed capacity is available for growth; and quality of life is protected. The proposed implementation program is consistent with Goal 8 to streamline agency programs and activities: the underground piping compliance schedules would be coordinated with the Underground Storage Tank compliance requirements and the inspection/review program would be coordinated with Weights & Measures Division and existing DEQ programs.

The Department is not aware of any conflicts with agency or legislative policy.

ISSUES FOR COMMISSION TO RESOLVE:

The alternative boundaries, exemptions, and schedules were reviewed with the Commission at the November 1989 and January 1990 work sessions. The Department is not aware of any outstanding critical issues for resolution by the Commission.

INTENDED FOLLOWUP ACTIONS:

1. Hold public hearing in July 1990.

2. Summarize public testimony, respond to issues, revise proposed rules as necessary, and recommend adoption of revised rules to Commission at September 1990 EQC meeting.

3. Coordinate proposed Stage II program with DEQ Underground Storage Tank program and Department of Agriculture, Weights and Measures Division.

Approved:

Section: _____

Division: _____

Director: _____

Report Prepared By: Merlyn Hough

Phone: 229-6446

Date Prepared: May 9, 1990

MLH:a
PLAN\AH6063
(5/90)

Vapors from Refueling of Motor Vehicles

Purpose

340-22-400 (1) Gasoline vapors contribute to the formation of ozone. These rules require the control of gasoline vapors during the refueling of motor vehicles.

(2) These rules apply to gasoline dispensing sites located within Clackamas, Multnomah and Washington Counties.

Definitions

340-22-402 As used in these rules, unless otherwise required by context:

(1) "Equivalent control" means the use of alternate operational and/or equipment controls for the reduction of gasoline vapor emissions, that have been approved by the Department, such that the aggregate emissions of gasoline vapor from the facility do not exceed those from the application of defined reasonably available control technology.

(2) "Gasoline" means any petroleum distillate having a Reid vapor pressure of four pounds per square inch (28 kilopascals) or higher, used as a motor fuel.

(3) "Gasoline dispensing site" means any site where gasoline is dispensed into vehicle fuel tanks or into portable containers used to fuel any motor from any stationary storage container(s) larger than 550 gallons.

(4) "Annual throughput" means the amount of petroleum liquid transferred into or dispensed from a gasoline dispensing site during 12 consecutive months.

(5) "Stage I vapor collection system" means a system where gasoline vapors are forced from a tank into a vapor-tight holding system or vapor control system through direct displacement by the gasoline being loaded.

(6) "Stage II vapor collection system" means a system where at least 90 percent, by weight, of the gasoline vapors that are displaced or drawn from a vehicle fuel tank during refueling are removed to a vapor-tight holding system or vapor control system.

(7) "Substantially modified" means a modification of an existing gasoline-dispensing site which involves the addition of one or more new stationary gasoline storage tanks or the repair, replacement or reconditioning of an existing tank.

(8) "Vapor control system" means a system that prevents emissions to the outdoor atmosphere from exceeding 4.7 grains per gallon (80 grams per 1,000 liters) of petroleum liquid loaded.

General Provisions

340-22-404 (1) No person shall transfer or allow the transfer of gasoline into storage tanks, at gasoline-dispensing sites located in Clackamas, Multnomah or Washington Counties, whose annual throughput exceeds 120,000 gallons, unless the storage tank is equipped with:

(a) a stage I vapor collection system consisting of a vapor-tight return line from the storage tank, or its vent, to the gasoline transport vehicle, and a system that will ensure that the vapor line is connected before gasoline can be transferred into the tank;

(b) a properly installed onsite vapor control system connected to a vapor collections system; or

(c) an equivalent control system.

(2) A stage I vapor collection system and submerged filling are not required for storage tanks with a capacity less than 550 gallons. A stage II vapor collection system is not required at gasoline-dispensing sites that are not subject to the stage I requirements of this section.

(3) No owner and/or operator of a gasoline-dispensing site shall transfer or allow the transfer of gasoline into a motor vehicle fuel tank at gasoline-dispensing sites located in Clackamas, Multnomah or Washington Counties whose annual throughput exceeds 120,000 gallons, unless the gasoline-dispensing site is equipped with underground piping for a stage II vapor collection system which must be approved by the Department before it is installed.

(4) Notwithstanding subsection (2) of this section, a stage I vapor collection system and underground piping portion of a stage II vapor collection system are required at any gasoline-dispensing site, regardless of the annual throughput of gasoline, located in Clackamas, Multnomah or Washington Counties which is constructed after the effective date of this rule or which is replaced or substantially modified after the effective date of this rule.

(5) Owners and/or operators of gasoline storage tanks, gasoline transport vehicles and gasoline-dispensing sites subject to stage I or stage II vapor collection or vapor control system requirements must:

(a) install all necessary stage I collection and control systems and underground piping portion of stage II collection and control systems, and make any modifications necessary to comply with the requirements;

(b) provide adequate training and written instructions to the operator of the affected gasoline-dispensing site and the gasoline transport vehicle;

(c) replace, repair or modify any worn or ineffective component or design element to ensure the vapor-tight integrity and efficiency of the stage I vapor collection and vapor control systems; and

(d) connect and ensure proper operation of the stage I vapor collection and control systems whenever gasoline is being loaded, unloaded or dispensed.

(6) Stationary storage tanks with a capacity of 550 gallons or more at any gasoline-dispensing site in Clackamas, Multnomah or Washington Counties must have a stage I vapor collection or vapor control system.

(7) Approval of a stage I vapor collection system or stage II underground piping by the Department does not relieve the owner and/or operator of the responsibility to comply with other applicable codes and regulations pertaining to fire prevention, weights and measures and safety matters.

Compliance Schedules

340-22-406 (1) Owners of gasoline-dispensing sites subject to the stage I vapor collection requirements of this rule within the Portland Air Quality Maintenance Area are required to be in compliance with all requirements by April 1, 1981.

(2) Owners of gasoline-dispensing sites subject to the stage I vapor collection requirements of this rule outside the Portland Air Quality Maintenance Area but within Clackamas, Multnomah or Washington Counties must be in compliance with stage I requirements within 24 months of the effective date of this rule or at the time the gasoline-dispensing site is substantially modified, whichever is sooner.

(3) Owners of gasoline-dispensing sites subject to the stage II requirements of this rule must provide the underground piping portion of the stage II vapor recovery systems within 24 months of the effective date of this rule or at the time the gasoline-dispensing site is substantially modified, whichever is sooner. The above-ground portion of the stage II vapor recovery system is not required by these rules.

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5/9/90

RULEMAKING STATEMENTS FOR PROPOSED AMENDMENTS TO RULES FOR CONTROL OF GASOLINE VAPORS FROM GASOLINE DISPENSING STATIONS

STATEMENT OF NEED FOR RULEMAKING

Pursuant to ORS 183.335(7), this statement provides information on the intended action to amend a rule.

(1) Legal Authority

This proposal amends Oregon Administrative Rules (OAR) 340, Division 22. It is proposed under authority of Oregon Revised Statutes (ORS) Chapter 468.

(2) Need for these Rules

Gasoline vapors contribute to ozone air pollution. The Portland-Vancouver Air Quality Maintenance Area has been in marginal compliance with the ozone health standard the last three years (1987-89). Additional reductions are needed in the hydrocarbon vapors (gasoline vapors and other hydrocarbon vapors) that contribute to ozone air pollution in order to insure that air quality is maintained within healthful levels and to provide airshed capacity for growth. The control of gasoline vapors at gasoline dispensing sites is one of the most cost-effective approaches for reducing ozone-causing emissions.

(3) Principal Documents Relied Upon

Evaluation of Air Pollution Regulatory Strategies for Gasoline Marketing Industry, U.S. Environmental Protection Agency, EPA-450/3-84-012a, July 1984.

Report to the Oregon Environmental Quality Commission by the Technical Advisory Committee on Stage I/II Vapor Recovery, November 8, 1989.

Staff Report to the Environmental Quality Commission, November 30, 1989, Work Session, Agenda Item No. 1.

Staff Report to the Environmental Quality Commission, January 18, 1990, Work Session, Agenda Item No. 2.

All documents referenced may be inspected at the Department of Environmental Quality, 811 SW 6th Ave., Portland, Ore, during normal business hours.

LAND USE CONSISTENCY STATEMENT

The proposed rule changes appear to affect land use as defined in the Department's coordination program with DLCD, but appear to be consistent with the Statewide Planning Goals.

With regard to Goal 6, (air, water, and land resources quality), the proposed changes are designed to enhance and preserve air quality in the State and are considered consistent with the goal. The proposed rule changes do not appear to conflict with the other Goals.

Public comment on any land use issue involved is welcome and may be submitted in the same fashion as indicated for other testimony on these rules.

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

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

MLH:a
PLAN\AH6071

FISCAL AND ECONOMIC IMPACT STATEMENT FOR PROPOSED AMENDMENTS TO RULES FOR CONTROL OF GASOLINE VAPORS FROM GASOLINE DISPENSING STATIONS

PROPOSAL SUMMARY

The proposed rules would:

- Require underground piping as the first step in implementing Stage II vapor recovery (control of motor vehicle refueling vapors) at gasoline stations.
- Require the installation of Stage II underground piping within 24 months of rule adoption or at the time of compliance with Underground Storage Tank requirements, whichever occurs sooner.
- Affect gasoline stations with an annual gasoline throughput of 120,000 gallons or more (i.e., monthly average throughput of 10,000 gallons or more) in Clackamas, Multnomah and Washington Counties.

In addition, gasoline stations in these counties that have not already installed Stage I vapor recovery systems (control of tanker truck to storage tank vapors) would be required to do so within the same 24 month or less schedule; gasoline stations within the Portland-Vancouver Air Quality Maintenance Area (which includes most of the stations in the three counties) were previously required to implement Stage I by April 1981.

COSTS TO GASOLINE STATION OWNERS

The proposed rules would require only the underground piping portion of the Stage II vapor recovery system at this time. The underground piping cost would be substantially lower if done at the time of Underground Storage Tank compliance work than if done separately.

The capital costs for the underground piping at an average 10-nozzle gasoline station are estimated to be as low as $2,000 for straightforward piping installations coordinated with UST compliance work, or as high as $18,000 or more for more difficult piping installations not coordinated with UST compliance work.

The capital costs to install the overall Stage II vapor recovery system (both the underground and the above-ground portions) on an average 10-nozzle gasoline station are estimated to be in the range of $13,000 to $25,000. The capital costs are expected to be in the lower part of this range if the underground piping is installed at the time of underground tank replacement. Financial assistance is available from the state to partially defray these costs through pollution control tax credits and Underground Storage Tank loan guarantees and interest rate subsidies.

The overall costs for Stage II are estimated to be in the range of $600 to $2000 per ton of hydrocarbon vapor reduction based on 10% interest rate and 15-year equipment life. These costs are more expensive per unit of pollution reduction than the gasoline volatility limits adopted by the Environmental Quality Commission last year (estimated $320 to $500 per ton reduction) but less expensive than new controls on industrial sources (estimated $5,300 to $6,600 per ton reduction).

The capital costs for Stage I vapor control systems are estimated at $300 to $700 per underground storage tank or $1000 to $2000 per gasoline station. Gasoline stations within the Portland-Vancouver Air Quality Maintenance Area (AQMA) were required to install Stage I by April 1981. The proposed rules would require Stage I for gasoline stations outside the AQMA but within the three-county area.

COSTS TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY

Costs to the Department would fall into five categories:

Registration of equipment to be regulated;
Review and/or inspection of installation;
Education of the regulated community;
Periodic inspection and/or performance testing;
Enforcement and follow up inspections.

A stand-alone Stage II Vapor Recovery program operated independently by the Air Quality Division in the Portland metropolitan area would require 2 full-time-equivalent (FTE) positions and an annual budget of $125,000.

Substantial cost savings are possible (as much as 50 percent) if a cooperative approach is taken. This approach would make use of existing programs in the Department of Agriculture Weights & Measures Division (which already inspects metering systems on all retail gasoline pumps), DEQ Underground Storage Tank Program (which already regulates and inspects some underground gasoline tank installations), and DEQ Regional Operations (which already does inspections and enforcement on many pollution sources).

It is expected that the incremental costs associated with an increased work load on these programs would be substantially less than the cost of creating a new program from scratch. The Department intends to pursue the cooperative approach and negotiate the necessary agreements.

Start-up costs could be minimized by phasing in the program over a few years. A program could be started almost immediately by requiring that underground Stage II equipment be installed whenever new tanks are installed (administered by the Underground Storage Tank program). Routine inspection of Stage II equipment would not be required until the time of installation of above-ground Stage II equipment; a schedule for above-ground equipment has not yet been established and would be the subject of separate rulemaking proceedings at a later date.

MLH:a
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Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

CONTROL OF VAPORS FROM GASOLINE DISPENSING STATIONS
NOTICE OF PUBLIC HEARING

Hearing Date: July 18, 1990
Comments Due: July 23, 1990

WHO IS AFFECTED: Gasoline dispensing stations in Clackamas, Multnomah and Washington Counties.

WHAT IS PROPOSED: The Department of Environmental Quality is proposing to amend OAR 340, Division 22.

WHAT ARE THE HIGHLIGHTS:

1) Gasoline vapors contribute to the formation of ozone air pollution. The proposed rules address the control of gasoline vapors at gasoline dispensing stations.

2) Gasoline station owners would be required to install Stage I vapor recovery systems (if they have not already done so) and the underground piping portion of Stage II vapor recovery systems.

3) The vapor control changes would need to be done within 24 months or at the time of Underground Storage Tank (UST) compliance work, whichever occurs sooner.

HOW TO COMMENT: Copies of the complete proposed rule package may be obtained from: Air Quality Division, Department of Environmental Quality, 811 S.W. Sixth Avenue, Portland, OR 97204 or the regional office nearest you. For further information contact Merlyn Hough at (503) 229-6446.

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

1:30 p.m.
July 18, 1990
Department of Environmental Quality
Conference Room 3A
811 SW Sixth Avenue
Portland, OR 97204

Oral and written comments will be accepted at the public hearing. Written comments may be sent to the DEQ, but must be received by no later than July 23, 1990.

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

11/1/86

FOR FURTHER INFORMATION:

Contact the person or division identified in the public notice by calling 229-5696 in the Portland area. To avoid long distance charges from other parts of the state, call 1-800-452-4011.

WHAT IS THE NEXT STEP:

After public hearing the Environmental Quality Commission may adopt rule amendments identical to the proposed amendments, adopt modified rule amendments on the same subject matter, or decline to act. The adopted rules will be submitted to the U. S. Environmental Protection Agency as part of the State Clean Air Act Implementation Plan. The Commission's deliberation should come in September 1990 as part of the agenda of a regularly scheduled Commission meeting.

A Statement of Need, Fiscal and Economic Impact Statement, and Land Use Consistency Statement are attached to this notice.

PLAN\AH6070

more air contaminants which contribute to a condition of air pollution.

(4) "Air contamination source" means any source at, from, or by reason of which there is emitted into the atmosphere any air contaminant, regardless of who the person may be who owns or operates the building, premises or other property in, at or on which such source is located, or the facility, equipment or other property by which the emission is caused or from which the emission comes.

(5) "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants, or any combination thereof, in sufficient quantities and of such characteristics and of a duration as are or are likely to be injurious to public welfare, to the health of human, plant or animal life or to property or to interfere unreasonably with enjoyment of life and property throughout such area of the state as shall be affected thereby.

(6) "Area of the state" means any city or county or portion thereof or other geographical area of the state as may be designated by the commission.

(7) "Woodstove" means a wood fired appliance with a closed fire chamber which maintains an air-to-fuel ratio of less than 30 during the burning of 90 percent or more of the fuel mass consumed in the low firing cycle. The low firing cycle means less than or equal to 25 percent of the maximum burn rate achieved with doors closed or the minimum burn achievable. [Formerly 449.760; 1983 c.333 §1]

468.280 Policy. (1) In the interest of the public health and welfare of the people, it is declared to be the public policy of the State of Oregon:

(a) To restore and maintain the quality of the air resources of the state in a condition as free from air pollution as is practicable, consistent with the overall public welfare of the state.

(b) To provide for a coordinated statewide program of air quality control and to allocate between the state and the units of local government responsibility for such control.

(c) To facilitate cooperation among units of local government in establishing and supporting air quality control programs.

(2) The program for the control of air pollution in this state shall be undertaken in a progressive manner, and each of its successive objectives shall be sought to be accomplished by cooperation and conciliation among all the parties concerned. [Formerly 449.765]

468.285 Purpose. It is the purpose of the air pollution laws contained in ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.405, 454.425, 454.505 to 454.535, 454.605 to 454.745 and this chapter to safeguard the air resources of the state by controlling, abating and preventing air pollution under a program which shall be consistent with the declaration of policy in this section and with ORS 468.280. [Formerly 449.770]

468.290 Application of air pollution laws. Except as provided in this section and in ORS 468.450, 476.380 and 478.960, the air pollution laws contained in this chapter do not apply to:

(1) Agricultural operations and the growing or harvesting of crops and the raising of fowls or animals, except field burning which shall be subject to regulation pursuant to ORS 468.140, 468.150, 468.455 to 468.480 and this section;

(2) Use of equipment in agricultural operations in the growth of crops or the raising of fowls or animals, except field burning which shall be subject to regulation pursuant to ORS 468.140, 468.150, 468.455 to 468.480 and this section;

(3) Barbecue equipment used in connection with any residence;

(4) Agricultural land clearing operations or land grading;

(5) Heating equipment in or used in connection with residences used exclusively as dwellings for not more than four families, except woodstoves which shall be subject to regulation under this section and ORS 468.630 to 468.655;

(6) Fires set or permitted by any public agency when such fire is set or permitted in the performance of its official duty for the purpose of weed abatement, prevention or elimination of a fire hazard, or instruction of employees in the methods of fire fighting, which in the opinion of the agency is necessary;

(7) Fires set pursuant to permit for the purpose of instruction of employees of private industrial concerns in methods of fire fighting, or for civil defense instruction; or

(8) The propagation and raising of nursery stock, except boilers used in connection with the propagation and raising of nursery stock. [Formerly 449.775; 1975 c.559 §3; 1983 c.333 §2; 1983 c.730 §3]

468.295 Air purity standards; air quality standards. (1) By rule the commission may establish areas of the state and prescribe the degree of air pollution or air contamination that may be permitted therein, as air purity standards for such areas.

(2) In determining air purity standards, the commission shall consider the following factors:

(a) The quality or characteristics of air contaminants or the duration of their presence in the atmosphere which may cause air pollution in the particular area of the state;

(b) Existing physical conditions and topography;

(c) Prevailing wind directions and velocities;

(d) Temperatures and temperature inversion periods, humidity, and other atmospheric conditions;

(e) Possible chemical reactions between air contaminants or between such air contaminants and air gases, moisture or sunlight;

(f) The predominant character of development of the area of the state, such as residential, highly developed industrial area, commercial or other characteristics;

(g) Availability of air-cleaning devices;

(h) Economic feasibility of air-cleaning devices;

(i) Effect on normal human health of particular air contaminants;

(j) Effect on efficiency of industrial operation resulting from use of air-cleaning devices;

(k) Extent of danger to property in the area reasonably to be expected from any particular air contaminants;

(L) Interference with reasonable enjoyment of life by persons in the area which can reasonably be expected to be affected by the air contaminants;

(m) The volume of air contaminants emitted from a particular class of air contamination source;

(n) The economic and industrial development of the state and continuance of public enjoyment of the state's natural resources; and

(o) Other factors which the commission may find applicable.

(3) The commission may establish air quality standards including emission standards for the entire state or an area of the state. The standards shall set forth the maximum amount of air pollution permissible in various categories of air contaminants and may differentiate between different areas of the state, different air contaminants and different air contamination sources or classes thereof. [Formerly 449.785]

468.300 When liability for violation not applicable. The several liabilities which may be imposed pursuant to ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.405, 454.425, 454.505 to 454.535, 454.605 to 454.745 and this chapter upon persons violating the provisions of any rule, standard or order of the commission pertaining to air pollution shall not be so construed as to include any violation which was caused by an act of God, war, strife, riot or other condition as to which any negligence or wilful misconduct on the part of such person was not the proximate cause. [Formerly 449.825]

468.305 General comprehensive plan. Subject to policy direction by the commission, the department shall prepare and develop a general comprehensive plan for the control or abatement of existing air pollution and for the control or prevention of new air pollution in any area of the state in which air pollution is found already existing or in danger of existing. The plan shall recognize varying requirements for different areas of the state. [Formerly 449.782]

468.310 Permits. By rule the commission may require permits for air contamination sources classified by type of air contaminants, by type of air contamination source or by area of the state. The permits shall be issued as provided in ORS 468.065. [Formerly 449.727]

468.315 Activities prohibited without permit; limit on activities with permit. (1) Without first obtaining a permit pursuant to ORS 468.065, no person shall:

(a) Discharge, emit or allow to be discharged or emitted any air contaminant for which a permit is required under ORS 468.310 into the outdoor atmosphere from any air contamination source.

(b) Construct, install, establish, develop, modify, enlarge or operate any air contamination source for which a permit is required under ORS 468.310.

(2) No person shall increase in volume or strength discharges or emissions from any air contamination source for which a permit is required under ORS 468.310 in excess of the permissive discharges or emission specified under an existing permit. [Formerly 449.731]

468.320 Classification of air contamination sources; registration and reporting of sources. (1) By rule the commission may classify air contamination sources according to levels and types of emissions and other characteristics which cause or tend to cause or contribute to air pollution and may require registration or reporting or both for any such class or classes.

(2) Any person in control of an air contamination source of any class for which registration and reporting is required under subsection (1) of this section shall register

Report to the
Oregon Environmental Quality Commission
by the
Technical Advisory Committee on Stage I/II Vapor Recovery

November 8, 1989

This report summarizes material presented to the DEQ Advisory Committee on Stage II Vapor Recovery. The committee reviewed various issues associated with consideration of Stage I/II vapor recovery as an air pollution control measure. While all members of the committee are in favor of clean air, the economic and political issues associated with consideration of this subject made an unanimous, or even majority recommendation impossible. All committee members agreed in principle that enhancement of Oregon's current Stage I efforts was required and that Stage II vapor recovery can achieve a reduction in volatile organic compounds (VOC) -- hydrocarbons. The disagreements are based upon the degree of need for this type of control strategy and the impacts of the costs associated with implementation.

Committee Recommendation

The Committee reached the following unanimous recommendation of those present and voting:

> The underground piping for Stage II Vapor Recovery be required to be constructed and set in place at the time of UST compliance or sooner, as determined through the rulemaking process - but not less than 24 months, at all gasoline refueling stations with an average monthly throughput of greater than 10,000 gallons of gasoline located within the county boundaries of Multnomah, Washington, and Clackamas counties.
>
> That Stage I Vapor Recovery be fully implemented at all gasoline refueling stations within the above named counties on the above described schedule.
>
> That the requirement for installation of the above ground components of the Stage II Vapor Recovery system and full operation of the system not be adopted until re-authorization of the Clean Air Act and base year considerations have been completed.
>
> That the installation of, at least, the underground piping for Stage II Vapor Recovery be strongly recommended as a prudent investment within the rest of the state for refueling stations with an average monthly throughput of greater than 10,000 gallons of gasoline.

CONSIDERATION ON STAGE II VAPOR RECOVERY

This Advisory Committee was formed in the late spring of 1989. Its charter is to review the concept of implementing a Stage II vapor recovery program in Oregon. Committee membership information is contained at the end of this

report. For purposes of definition, Stage I and Stage II are the names of methods used to control gasoline vapors during the filling of service stations underground tanks by tanker trucks, Stage I -- Figure 1, and the capture of the gasoline vapors when individual automobiles are filled, Stage II -- Figure 2.

During a series of monthly meetings, there was a review of the status of Oregon's Stage I program, an update on the status of the Underground Storage Tank (UST) program, and presentations by vendors of Stage II vapor control equipment. The benefits of this control strategy were discussed, as well as, the cost implications on both the petroleum marketing industry and the general retail gasoline purchaser.

This report will summarize the issues: the benefits in terms of air pollution and toxic control, and the costs and impacts associated with Stage II implementation. The following issues were explored in this review: the benefit to Air Pollution Control, Economic Development "Growth Cushion", Air Toxic Control, Energy Conservation, and the impact on Petroleum Marketing.

AIR POLLUTION CONTROL

Oregon's emission inventory lists gasoline marketing as one of the major sources of volatile organic compounds (VOC) emissions. In the Portland metropolitan area, these emissions account for 8.8% of the total VOCs (Figure 3). Also shown in that chart, is the comparison of VOCs from all sources except motor vehicle emissions.

VOCs associated with gasoline marketing, are generated when the lighter components of gasoline evaporate and are displaced to the atmosphere during vehicle fueling. VOC emissions are part of the air pollution chemistry involved in the formation of photochemical oxidants, measured as ozone; generically referred to as "smog." Portland is currently listed by EPA, as a "moderate" area for ozone noncompliance, and is the only so listed area in Oregon. Carbon monoxide is the other major non-compliant gas of concern in the Portland and Medford areas. Control of carbon monoxide emissions would be unaffected by Stage II type controls.

Some of gasoline marketing's emission impacts are currently regulated. Stage I vapor recovery systems were implemented in urban airsheds of Portland (AQMA), Salem (City limits), and Medford in the early 1970s. These efforts have achieved reductions in VOC emissions for those areas. Enhanced Stage I efforts are necessary in all areas where Stage II is being considered for implementation. The EPA recently announced a proposed rule, related to air toxics, that would require Stage I level control throughout the United States.

In the Portland metropolitan area, over 8% of the total hydrocarbon emissions are from petroleum marketing. Table 1, extracted for Oregon's emission inventory, lists the hydrocarbon emission estimates for all counties in the state. For the Portland metropolitan area, a reduction of approximately 3,000 tons per year of hydrocarbon emissions is estimated to be achieved with Stage II controls.

The following lists contains the cost/benefit estimates for a variety of control strategies. These figures are expressed in terms of dollars of cost per ton of VOC reduced.

On Board Controls -- New Cars	$ 190- 390

Note: Under President Bush's Clean Air Plan, on board controls will not be implemented by EPA. These controls have been discussed by some Senators during Clean Air Act debate, but issues again raised by NHTSA appear to doom further development of this control strategy, at this time.

1 psi RVP gasoline reduction (to 10.5 psi)	$ 320- 500
2.5 psi RVP gasoline reduction (to 9 psi)	$ 400- 600
Stage II Vapor Recovery (EPA est)	$ 620-1,940
Stage II Vapor Recovery (CARB), avg volume	$ 600
Stage II Vapor Recovery (CARB), low volume	$6,000
Stage II Vapor Recovery (CARB), high volume	$ 200
Stage II Vapor Recovery (EPA 1989)	$1,000

From these figures, Stage II Vapor Recovery is estimated to be more cost-effective than new controls on industrial sources, which generally average about $5,300-6,600 per ton of VOC reduced.

ECONOMIC DEVELOPMENT "GROWTH CUSHION"

When air quality standards are met, our community achieves several benefits. Healthful air is assured for area residents and the quality of life is improved. From a business perspective, achieving compliance with air quality standards by more than absolutely necessary, provides a reserve of air emissions available for business and industrial expansion, as well as, the population expansion and other emission increases, such as those due to traffic, associated with any increased growth. If no growth occurs, then potentially even more healthful air is achieved for the community.

To comply with the National Ambient Air Quality Standards (NAAQS) for ozone, an airshed must demonstrate 3 years of ozone attainment and have an approved 10 year plan for maintenance of the ozone standard. While which three years might best be chosen to demonstrate compliance was discussed, it was not the role of this committee to make recommendations on that subject.

The sizable emission reduction potential that Stage II is projected to achieve in the Portland metropolitan area, serves several functions. It can provide for added assurance that the maintenance plan will succeed. Part of the emission reduction potential can be used to offset new industries emissions. This extra offset provides for a "growth cushion." Thus the extra emissions reduction can accommodate economic expansion that is sure to come with continued population growth. Or the extra emissions reduction can be used simply to assure cleaner air for the community.

As an example for the Portland metro area, the potential 3,000 ton per year of VOC represents the equivalent of 10 top existing major heavy industrial plants in the area. From an economic perspective then, this control strategy could allow for robust economic growth to occur. That growth could encompass new well controlled industrial or electronics operations and still allow this metropolitan area to maintain compliance with the current ozone standard. And yet, since Portland is part of an interstate airshed, action on the Oregon side without a similar action on the Washington side, is felt by some individuals as saddling the Oregon portion of the interstate airshed with an additional economic handicap.

AIR TOXIC CONTROL

Motor gasoline contains a variety of chemical compounds. Among these compounds, benzene, toluene and xylene are some that present health concerns. Definition sheets on these compounds are attached. Currently, benzene is the only one of these compounds that there is fairly universal agreement as to carcinogenicity among the major listings. Not all of the accepted lists include toluene and xylene. Typical gasoline contains about 3% benzene, 12% toluene, and 12% xylene. These percentages may vary depending upon the particular gasoline blend.

While benzene makes up a somewhat small percent of all the different chemicals in gasoline, the cancer risk assessment from exposure to the benzene component in gasoline vapors, even to people living in rural areas near service stations, is above the levels of risk that are generally considered appropriate. In this context, the acceptable level of risk for cancer exposure is 1 cancer case from a pollutant per 1,000,000 population.

California Air Resources Board (CARB) has developed the most extensive information on risk exposure to benzene. Based upon this work, the levels of exposure to benzene are between 3 and 24 cancer cases per 1,000,000 population. The risk assessment ranges from the risk associated with living in a rural area near a service station, to the higher urban area risk. Air toxic considerations have lead to programs that are now being implemented, on a statewide basis in at least two states, California and New York. Oregon service station attendants, by extension to these risk estimates, would be at a higher level of risk, since there are currently no self service gasoline in the state.

EPA's proposed rule, mandating Stage I on a national basis, was issued as a benzene control strategy. Based upon the information in Table 1, about 2,000 tons per year of VOC would be captured due to Stage I throughout Oregon. If Stage II were implemented on a statewide basis, an additional 5,000 tons per year could be captured.

ENERGY CONSERVATION

A fourth issue involving Stage II, is that of energy conservation. Under the terms of SB 576, passed by the 1989 Oregon Legislature, the state is to demonstrate a 20% reduction in specific greenhouse and greenhouse-related gases. Some of these gases are present in gasoline vapors. Though there is

some controversy over the magnitude of energy recovery available from vapor recovery. In general, however, emission factors indicate that in excess of 11 pounds of gasoline vapor per 1,000 gallons of gasoline pumped are displaced to the atmosphere. The overall energy conservation from gasoline vapor recovery, depends on how the vapors are handled between the service station and the bulk loading terminal and how the collected vapors are processed in the terminal vapor recovery unit.

SUMMARY OF BENEFITS

Briefly summarizing what are considered the benefits:

There is a significant air pollution benefit, both in terms of achieving compliance and assuring maintenance of the federal ozone standard.

There is the potential to enhance economic growth and development, and to allow for the associated population expansion. Since Portland AQMA is in an interstate area, any proposal shown necessary to attain or maintain the ozone standard, should be considered for implementation throughout the interstate airshed.

There is a significant cancer risk associated with exposure from compounds found in gasoline vapors. Stage II vapor recovery provides one method to achieve that control.

There is the potential for energy conservation. Such efforts, are consistent with Legislative policy.

PETROLEUM MARKETING

Consumer Perception People who buy gasoline have seen the number of service stations in Oregon closed over the past ten years. Because of continuing market pressures and the UST requirements, there is predicted to be a continued decrease in the number of service stations to less than half the stations that were doing business in 1980. Implementation of Stage II will add one more pressure on petroleum marketing, possibly causing some additional operations to shut down. On the other hand, price increases attributable to Stage II systems, estimated to range from between 0.2¢ per gallon for large (200,000 gal/month) volume stations, to 1.1¢ per gallon for small (10,000 gal/month) operations, may not be noticeable. Current evidence of this is the wide range in retail gasoline prices in any given area.

Petroleum Marketing Industry This proposal directly impacts those in the petroleum marketing industry. This impact will be felt in installations and operating costs. The gasoline marketing industry is two years into the ten year period of transition to regulated underground storage tanks (UST). The UST program comes on the heels of a massive change in marketing emphasis, so that as a result, today over half of the retail service stations, have closed. This change in the marketing structure and the effect it has had on this industry was a major stumbling block in reaching a consensus.

Table 2 summarizes the costs estimates associated with Stage II implementation. These costs come from a variety of sources. Depending upon the assumptions, the cost of implementation of Stage II is estimated at about $800-1500 per nozzle for hardware at the pump. Underground excavation and plumbing costs will vary, and may be dependent upon UST compliance.

Costs that were discussed ranged, from $6,800 for the incremental addition of the plumbing for a 23 nozzle station necessary to support Stage II when modifications are made to comply with UST requirements, to a figure of $27,000 for new excavation and total installation of plumbing and hardware for a 12 nozzle facility. Many major oil companies are anticipating future requirements and are realizing cost savings by installing Stage II underground piping during the UST compliance work at company owned stations, especially in urban areas. Thús total capital cost to the owner/operator of a service station can range from about $800-1,500 per nozzle, but may be higher than that range depending upon individual circumstance. These cost do not include extra maintenance expenses, which is estimated at about $100-150 per nozzle per year. When the "cost of money" is considered, real out-of-pocket expense could double.

SUMMARY OF IMPACTS

Briefly summarizing what are considered the major impact on petroleum marketing:

There will be cost increases to the consumer in the price of gasoline. These costs have been estimated to be between 1.1¢ and 0.2¢ per gallon depending upon station size.

There are significant costs that will be borne by the petroleum marketing industry, both large corporation and small independent businesses, during implementation. These costs are estimated at between $800-1,500 per nozzle. In Oregon, for the average 9 nozzle station, the average high range cost is $13,500 for Stage II implementation.

Pollution control tax credits of up to 50% and loan guaranties under the UST program may be available to help with the installation costs.

MISCELLANEOUS ISSUES

During these past months of meetings and review, the Committee did make the following recommendations on issues associated with Stage II:

Enforcement efforts for Oregon's current Stage I program need to be enhanced.

Boundary designations for Stage I and II, if necessary, should be clear and made on a county by county basis.

The issue of tax credits and loan guarantees for Stage II during UST work needs to be clarified.

There should be some level of exemption for small volume service station from Stage II requirements.

If Stage II is to be implemented, there should be a phase in period to allow the industry an orderly transition.

Even handed enforcement and audit, at installation and on at least an annual basis of Stage II facilities would be necessary if the program is to succeed.

Non major service station owners, prior to UST compliance work, should be made aware of Stage I and Stage II requirements and how future rulemaking could affect them.

VIP\AR1675

FIGURE 1

Two Point Stage I Vapor Recovery

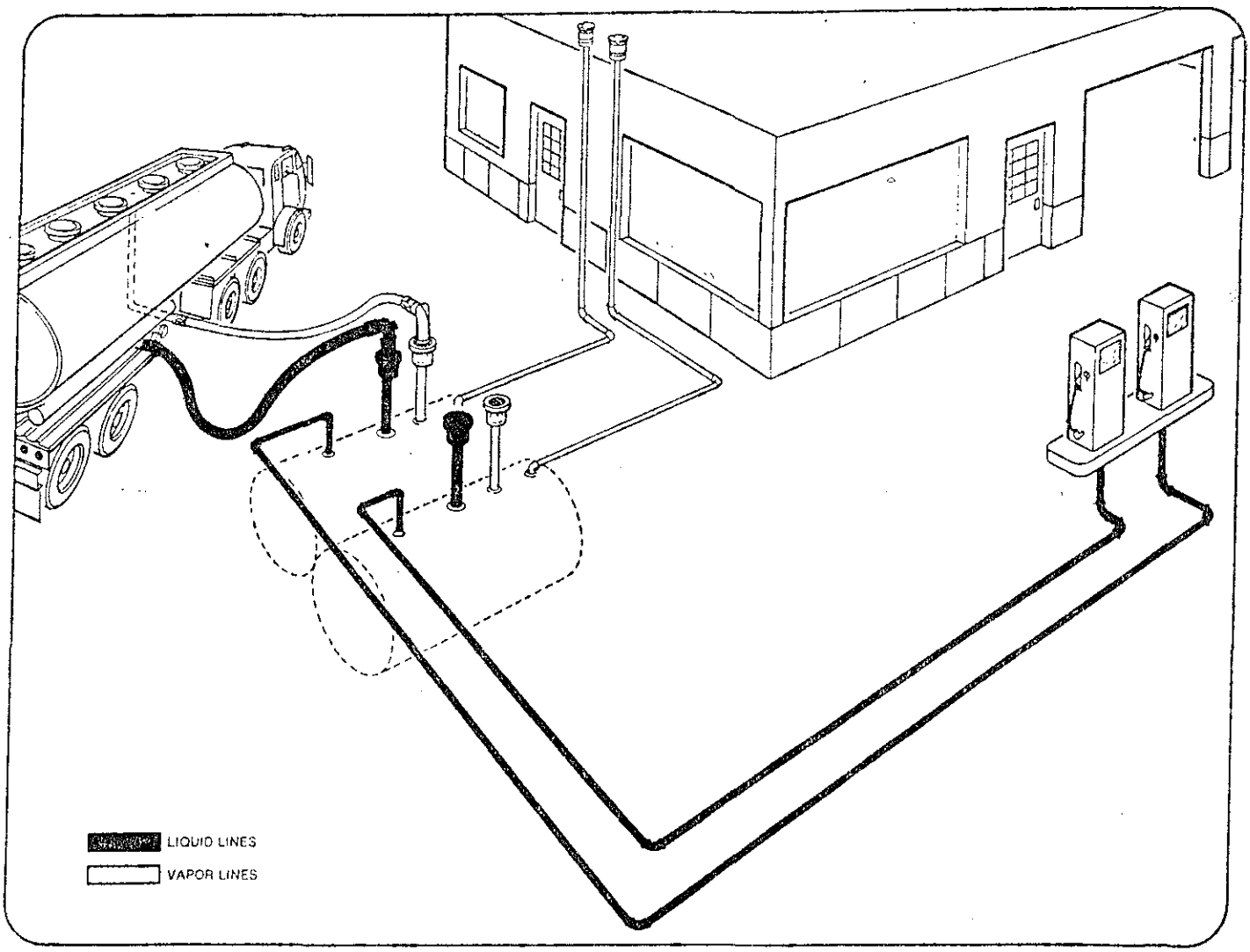


FIGURE 2

Two Point Stage I and Stage II Vapor Recovery

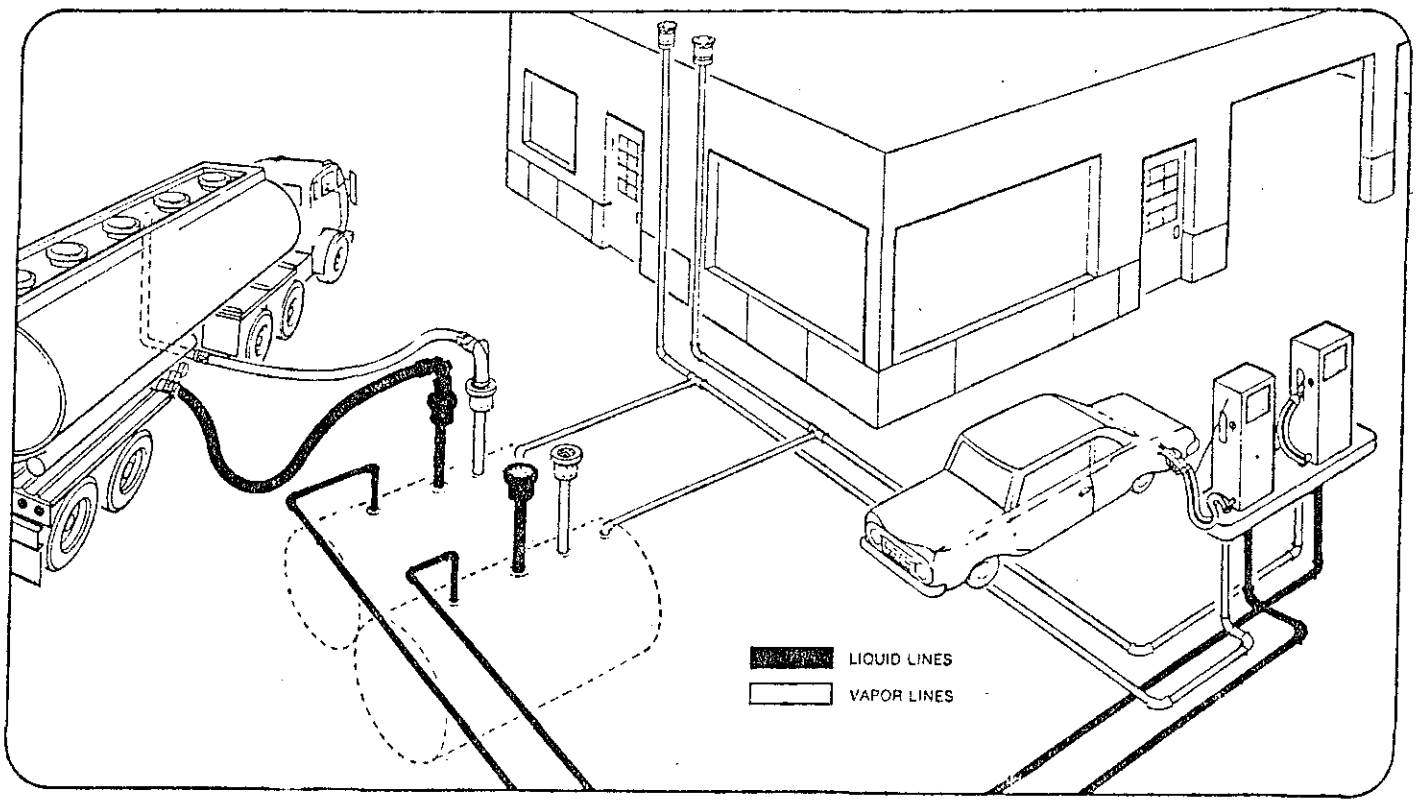
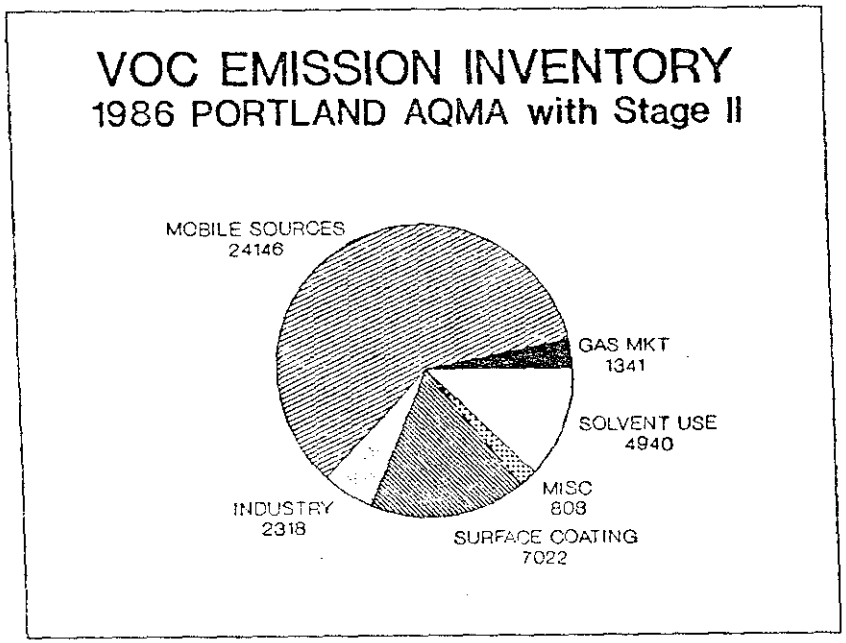
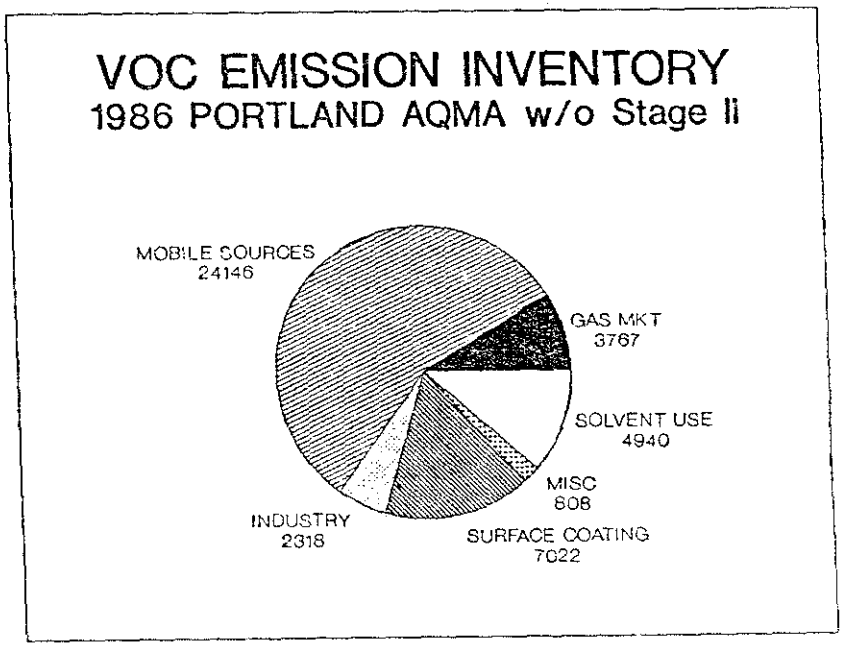
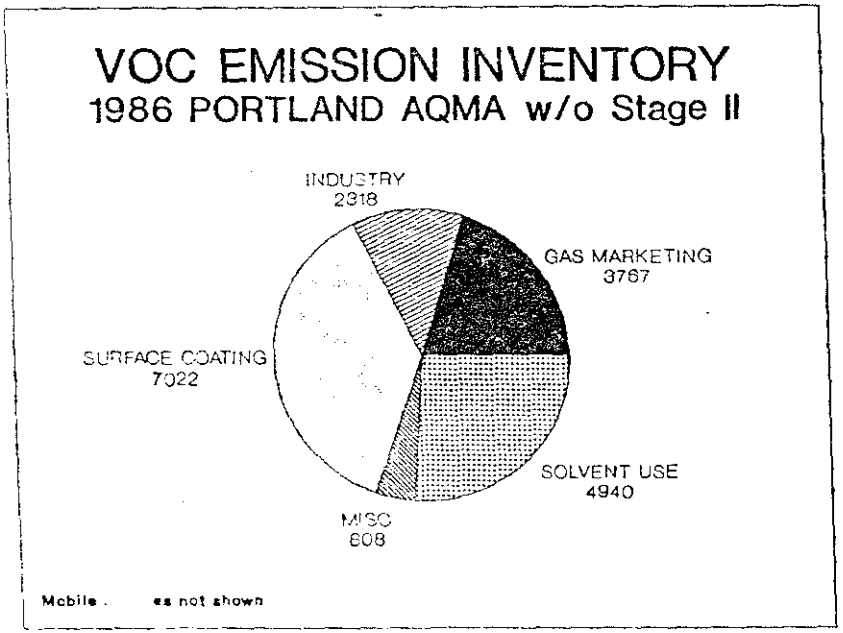


FIGURE 3


VOC EMISSION INVENTORY
1986 PORTLAND AQMA with Stage II
MOBILE SOURCES
24146
GAS MKT
1341
SOLVENT USE
4940
MISC
608
INDUSTRY
2318
SURFACE COATING
7022


VOC EMISSION INVENTORY
1986 PORTLAND AQMA w/o Stage II
MOBILE SOURCES
24146
GAS MKT
3767
SOLVENT USE
4940
MISC
608
INDUSTRY
2318
SURFACE COATING
7022


VOC EMISSION INVENTORY
1986 PORTLAND AQMA w/o Stage II
INDUSTRY
2318
GAS MARKETING
3767
SURFACE COATING
7022
SOLVENT USE
4940
MISC
608
Mobile . es not shown

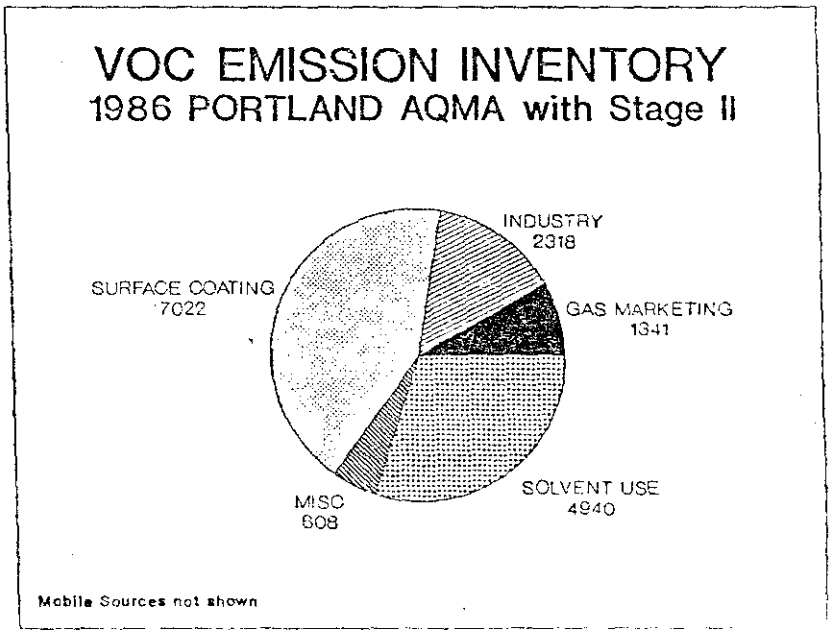

VOC EMISSION INVENTORY
1986 PORTLAND AQMA with Stage II
INDUSTRY
2318
SURFACE COATING
7022
GAS MARKETING
1341
MISC
608
SOLVENT USE
4940
Mobile Sources not shown

Table 1

GASOLINE MARKETING (Evaporative Emissions From Gasoline Service Station Operations)

Filename: EIGMT87D

YEAR: 1987 - Projection 3

Assumptions:

95% of service stations have stage 1 controls (balanced submerged filling)

95% of service stations have stage II controls

MOTOR VEHICLE GASOLINE SALES

Multnomah County	246525861	Gallons
Washington County	129536310	Gallons
Other Counties	932322577	Gallons
Total State	1308384748	Gallons

AIRCRAFT GASOLINE SALES

Total State	101885866	Gallons

POPULATION

Multnomah County	562000
Washington County	280000
Other Counties	1848000
Total State	2690000

EMISSION FACTORS (Table 4.4-7, AP-42)

				Current Emission Factors Being Used	
				CONTROLS	NO CONTROLS
Stage I	Filling Underground Storage Tanks				
	Submerged Filling	7.30	#/1000 Gal		7.30
	Splash Filling	11.50	#/1000 Gal		
	Balanced Submerged Filling	0.30	#/1000 Gal	0.30	
	Underground Tank Breathing & Emptying	1.00	#/1000 Gal	1.00	1.00
			Total Stage I --->	1.30	8.30
Stage II	Vehicle Refueling Operations				
	Displacement Losses (Uncontrolled)	11.00	#/1000 Gal		11.00
	Displacement Losses (Controlled)	1.10	#/1000 Gal	1.10	
	Spillage	0.70	#/1000 Gal	0.70	0.70
			Total Stage II -->	1.80	11.70

GASOLINE MARKETING (Evaporative Emissions From Gasoline Service Station Operations)

Filename: EIGMT87D

STAGE I EMISSIONS

XX	COUNTY	POPULATION	% OF OTHER COUNTIES POPULATION	% OF STATE POPULATION	EST GAS SALES (M GALLONS)	% OF SERVICE STATIONS WITH CONTROLS	EST SALES STATIONS WITH CONTROLS (M GALLONS)	EST SALES STATIONS WITHOUT CONTROLS (M GALLONS)	VOC FROM STATIONS WITH CONTROLS (TONS/YR)	VOC FROM STATIONS WITHOUT CONTROLS (TONS/YR)	TOTAL VOC (TONS/YR)	1987 VOC (TONS/YR)	CHANGE
1	BAKER	15300	0.83	0.57	8298.4	95.00	7883.5	414.9	5.12	1.72	6.85	34.44	-27.59
2	BENTON	69200	3.74	2.57	37532.7	95.00	35656.0	1876.6	23.18	7.79	30.96	155.76	-124.80
3	CLACKAMAS	255100	13.80	9.48	138361.0	95.00	131442.9	6918.0	85.44	28.71	114.15	201.32	-87.17
4	CLATSOP	33100	1.79	1.23	17952.8	95.00	17055.1	897.6	11.09	3.73	14.81	74.50	-59.69
5	COLUMBIA	36100	1.95	1.34	19579.9	95.00	18600.9	979.0	12.09	4.06	16.15	81.26	-65.10
6	COOS	57500	3.11	2.14	31186.8	95.00	29627.5	1559.3	19.26	6.47	25.73	129.43	-103.70
7	CROOK	13500	0.73	0.50	7322.1	95.00	6956.0	366.1	4.52	1.52	6.04	30.39	-24.35
8	CURRY	17200	0.93	0.64	9328.9	95.00	8862.5	466.4	5.76	1.94	7.70	38.72	-31.02
9	DESCHUTES	65600	3.55	2.44	35580.1	95.00	33801.1	1779.0	21.97	7.38	29.35	147.66	-118.30
10	DOUGLAS	93000	5.03	3.46	50441.3	95.00	47919.2	2522.1	31.15	10.47	41.61	209.33	-167.72
11	GILLIAM	1850	0.10	0.07	1003.4	95.00	953.2	50.2	0.62	0.21	0.83	4.16	-3.34
12	GRANT	8500	0.46	0.32	4610.2	95.00	4379.7	230.5	2.85	0.96	3.80	19.13	-15.33
13	HARNEY	7200	0.39	0.27	3905.1	95.00	3709.9	195.3	2.41	0.81	3.22	16.21	-12.98
14	HOOD RIVER	16500	0.89	0.61	8949.3	95.00	8501.8	447.5	5.53	1.86	7.38	37.14	-29.76
15	JACKSON	141700	7.67	5.27	76855.2	95.00	73012.4	3842.8	47.46	15.95	63.41	90.30	-26.90
16	JEFFERSON	11800	0.64	0.44	6400.1	95.00	6080.1	320.0	3.95	1.33	5.28	26.56	-21.28
17	JOSEPHINE	61700	3.34	2.29	33464.8	95.00	31791.6	1673.2	20.66	6.94	27.61	138.88	-111.27
18	KLAMATH	56900	3.08	2.12	30861.4	95.00	29318.3	1543.1	19.06	6.40	25.46	128.07	-102.61
19	LAKE	7300	0.40	0.27	3959.4	95.00	3761.4	198.0	2.44	0.82	3.27	16.43	-13.16
20	LANE	267700	14.49	9.95	145195.0	95.00	137935.2	7259.7	89.66	30.13	119.79	244.29	-124.50
21	LINCOLN	37600	2.03	1.40	20393.5	95.00	19373.8	1019.7	12.59	4.23	16.82	84.63	-67.81
22	LINN	87000	4.71	3.23	47187.0	95.00	44827.7	2359.4	29.14	9.79	38.93	195.83	-156.90
23	MALHEUR	26500	1.43	0.99	14373.1	95.00	13654.4	718.7	8.88	2.98	11.86	59.65	-47.79
24	MARION	214500	11.61	7.97	116340.4	95.00	110523.4	5817.0	71.84	24.14	95.98	262.11	-166.13
25	MORROW	8000	0.43	0.30	4339.0	95.00	4122.1	217.0	2.68	0.90	3.58	18.01	-14.43
26	MULTNOMAH	562000		20.89	267812.1	95.00	254421.5	13390.6	165.37	55.57	220.94	183.45	37.49
27	POLK	45800	2.48	1.70	24841.0	95.00	23598.9	1242.0	15.34	5.15	20.49	74.49	-53.99
28	SHERMAN	2100	0.11	0.08	1139.0	95.00	1082.0	56.9	0.70	0.24	0.94	4.73	-3.79
29	TILLAMOOK	21000	1.14	0.78	11390.0	95.00	10820.5	569.5	7.03	2.36	9.40	47.27	-37.87
30	UMATILLA	58100	3.14	2.16	31512.2	95.00	29936.6	1575.6	19.46	6.54	26.00	130.78	-104.78
31	UNION	23300	1.26	0.87	12637.4	95.00	12005.6	631.9	7.80	2.62	10.43	52.45	-42.02
32	WALLOWA	7150	0.39	0.27	3878.0	95.00	3684.1	193.9	2.39	0.80	3.20	16.09	-12.89
33	WASCO	20400	1.10	0.76	11064.5	95.00	10511.3	553.2	6.83	2.30	9.13	45.92	-36.79
34	WASHINGTON	280000		10.41	140141.5	95.00	133134.5	7007.1	86.54	29.08	115.62	110.71	4.90
35	WHEELER	1400	0.08	0.05	759.3	95.00	721.4	38.0	0.47	0.16	0.63	3.15	-2.52
36	YAMHILL	58400	3.16	2.17	31675.0	95.00	30091.2	1583.7	19.56	6.57	26.13	131.45	-105.32
	TOTAL	2690000	100	100	1410270.61		1339757.08	70513.53	870.84	292.63	1163.47	3244.68	-2081.21

GASOLINE MARKETING (Evaporative Emissions From Gasoline Service Station Operations)

Filename: EIGHT87D

STAGE II EMISSIONS

XX	COUNTY	POPULATION	% OF OTHER COUNTIES POPULATION	% OF STATE POPULATION	EST GAS SALES (M GALLONS)	% OF SERVICE STATIONS WITH CONTROLS	EST SALES STATIONS WITH CONTROLS (M GALLONS)	EST SALES STATIONS WITHOUT CONTROLS (M GALLONS)	VOC FROM STATIONS WITH CONTROLS (TONS/YR)	VOC FROM STATIONS WITHOUT CONTROLS (TONS/YR)	TOTAL VOC (TONS/YR)	1987 VOC (TONS/YR)	CHANGE
1	BAKER	15300	0.83	0.57	8298.4	95.00	7883.5	414.9	7.10	2.43	9.52	48.55	-39.02
2	BENTON	69200	3.74	2.57	37532.7	95.00	35656.0	1876.6	32.09	10.98	43.07	219.57	-176.50
3	CLACKAMAS	255100	13.80	9.48	138361.0	95.00	131442.9	6918.0	118.30	40.47	158.77	809.41	-650.64
4	CLATSOP	33100	1.79	1.23	17952.8	95.00	17055.1	897.6	15.35	5.25	20.60	105.02	-84.42
5	COLUMBIA	36100	1.95	1.34	19579.9	95.00	18600.9	979.0	16.74	5.73	22.47	114.54	-92.07
6	COOS	57500	3.11	2.14	31186.8	95.00	29627.5	1559.3	26.66	9.12	35.79	182.44	-146.66
7	CROOK	13500	0.73	0.50	7322.1	95.00	6956.0	366.1	6.26	2.14	8.40	42.83	-34.43
8	CURRY	17200	0.93	0.64	9328.9	95.00	8862.5	466.4	7.98	2.73	10.70	54.57	-43.87
9	DESCHUTES	65600	3.55	2.44	35580.1	95.00	33801.1	1779.0	30.42	10.41	40.83	208.14	-167.32
10	DOUGLAS	93000	5.03	3.46	50441.3	95.00	47919.2	2522.1	43.13	14.75	57.88	295.08	-237.20
11	GILLIAM	1850	0.10	0.07	1003.4	95.00	953.2	50.2	0.86	0.29	1.15	5.87	-4.72
12	GRANT	8500	0.46	0.32	4610.2	95.00	4379.7	230.5	3.94	1.35	5.29	26.97	-21.68
13	HARNEY	7200	0.39	0.27	3905.1	95.00	3709.9	195.3	3.34	1.14	4.48	22.85	-18.36
14	HOOD RIVER	16500	0.89	0.61	8949.3	95.00	8501.8	447.5	7.65	2.62	10.27	52.35	-42.08
15	JACKSON	141700	7.67	5.27	76855.2	95.00	73012.4	3842.8	65.71	22.48	88.19	449.60	-361.41
16	JEFFERSON	11800	0.64	0.44	6400.1	95.00	6080.1	320.0	5.47	1.87	7.34	37.44	-30.10
17	JOSEPHINE	61700	3.34	2.29	33464.8	95.00	31791.6	1673.2	28.61	9.79	38.40	195.77	-157.37
18	KLAMATH	56900	3.08	2.12	30861.4	95.00	29318.3	1543.1	26.39	9.03	35.41	180.54	-145.13
19	LAKE	7300	0.40	0.27	3959.4	95.00	3761.4	198.0	3.39	1.16	4.54	23.16	-18.62
20	LANE	267700	14.49	9.95	145195.0	95.00	137935.2	7259.7	124.14	42.47	166.61	849.39	-682.78
21	LINCOLN	37600	2.03	1.40	20393.5	95.00	19373.8	1019.7	17.44	5.97	23.40	119.30	-95.90
22	LINN	87000	4.71	3.23	47187.0	95.00	44827.7	2359.4	40.34	13.80	54.15	276.04	-221.90
23	MALHEUR	26500	1.43	0.99	14373.1	95.00	13654.4	718.7	12.29	4.20	16.49	84.08	-67.59
24	MARION	214500	11.61	7.97	116340.4	95.00	110523.4	5817.0	99.47	34.03	133.50	680.59	-547.09
25	MORROW	8000	0.43	0.30	4339.0	95.00	4122.1	217.0	3.71	1.27	4.98	25.38	-20.40
26	MULTNOMAH	562000		20.89	267812.1	95.00	254421.5	13390.6	228.98	78.34	307.31	1566.70	-1259.39
27	POLK	45800	2.48	1.70	24841.0	95.00	23598.9	1242.0	21.24	7.27	28.51	145.32	-116.81
28	SHERMAN	2100	0.11	0.08	1139.0	95.00	1082.0	56.9	0.97	0.33	1.31	6.66	-5.36
29	TILLAMOOK	21000	1.14	0.78	11390.0	95.00	10820.5	569.5	9.74	3.33	13.07	66.63	-53.56
30	UMATILLA	58100	3.14	2.16	31512.2	95.00	29936.6	1575.6	26.94	9.22	36.16	184.35	-148.19
31	UNION	23300	1.26	0.87	12637.4	95.00	12005.6	631.9	10.81	3.70	14.50	73.93	-59.43
32	WALLOWA	7150	0.39	0.27	3878.0	95.00	3684.1	193.9	3.32	1.13	4.45	22.69	-18.24
33	WASCO	20400	1.10	0.76	11064.5	95.00	10511.3	553.2	9.46	3.24	12.70	64.73	-52.03
34	WASHINGTON	280000		10.41	140141.5	95.00	133134.5	7007.1	119.82	40.99	160.81	819.83	-659.02
35	WHEELER	1400	0.08	0.05	759.3	95.00	721.4	38.0	0.65	0.22	0.87	4.44	-3.57
36	YAMHILL	58400	3.16	2.17	31675.0	95.00	30091.2	1583.7	27.08	9.26	36.35	185.30	-148.95
	TOTAL	2690000	100	100	1410270.61		1339757.08	70513.53	1205.78	412.50	1618.29	8250.08	-6631.80

GASOLINE MARKETING (Evaporative Emissions From Gasoline Service Station Operations)

Filename: EIGMT87D

XX	COUNTY	TOTAL VOC EMISSIONS (TONS/YR)	1987 VOC (TONS/YR)	CHANGE
1	BAKER	16.37	82.98	-66.62
2	BENTON	74.03	375.33	-301.29
3	CLACKAMAS	272.92	1010.73	-737.81
4	CLATSOP	35.41	179.53	-144.12
5	COLUMBIA	38.62	195.80	-157.18
6	COOS	61.52	311.87	-250.35
7	CROOK	14.44	73.22	-58.78
8	CURRY	18.40	93.29	-74.89
9	DESCHUTES	70.18	355.80	-285.62
10	DOUGLAS	99.50	504.41	-404.92
11	GILLIAM	1.98	10.03	-8.05
12	GRANT	9.09	46.10	-37.01
13	HARNEY	7.70	39.05	-31.35
14	HOOD RIVER	17.65	89.49	-71.84
15	JACKSON	151.60	539.91	-388.31
16	JEFFERSON	12.62	64.00	-51.38
17	JOSEPHINE	66.01	334.65	-268.64
18	KLAMATH	60.87	308.61	-247.74
19	LAKE	7.81	39.59	-31.78
20	LANE	286.40	1093.68	-807.28
21	LINCOLN	40.23	203.93	-163.71
22	LINN	93.08	471.87	-378.79
23	MALHEUR	28.35	143.73	-115.38
24	MARION	229.48	942.71	-713.22
25	MORROW	8.56	43.39	-34.83
26	MULTNOMAH	528.26	1750.15	-1221.89
27	POLK	49.00	219.81	-170.81
28	SHERMAN	2.25	11.39	-9.14
29	TILLAMOOK	22.47	113.90	-91.43
30	UMATILLA	62.16	315.12	-252.96
31	UNION	24.93	126.37	-101.45
32	WALLOWA	7.65	38.78	-31.13
33	WASCO	21.82	110.65	-88.82
34	WASHINGTON	276.43	930.54	-654.11
35	WHEELER	1.50	7.59	-6.10
36	YAMHILL	62.48	316.75	-254.27
	TOTAL	2781.76	11494.76	-8713.01

Table 2

Summary of Stage II Costs

	Oregon Estimates	API/St. Louis
Cost per pump hardware	$400-600 [1]	--
Maintenance per year	$100	--
Excavation only with UST (23 pumps)	$6800	--
Licence/permits	NA	$100-200
Total Cost estimate	$16000-27000	--
Average cost per nozzle	$800-1500 [2]	$1660

1 -- Based upon new Emco-Wheaton valve nozzle soon to be introduced at a cost of approximately $200 each.

2 -- Lower cost estimated based upon attributing all excavation costs to UST installation.

HAZARDOUS SUBSTANCE FACT SHEET

Contents prepared by the
New Jersey Department of Health
Right to Know Program

Distributed by the United States
Environmental Protection Agency
Office of Toxic Substances

COMMON NAME: BENZENE

CAS NUMBER: 71-43-2 **DOT NUMBER:** UN 1114

HAZARD SUMMARY

* Benzene can affect you when breathed in and by passing through your skin..
* Benzene is a CARCINOGEN--HANDLE WITH EXTREME CAUTION. It also may be a teratogen.
* Exposure can cause you to become dizzy and lightheaded. Higher levels can cause convulsions and death.
* Exposure can irritate the nose and throat and may cause an upset stomach and vomiting.
* Benzene can cause an irregular heart beat that can lead to death.
* Prolonged exposure can cause fatal damage to the blood (aplastic anemia).
* Benzene is a FLAMMABLE LIQUID.

IDENTIFICATION

Benzene is a colorless liquid with a pleasant odor. It is used mainly in making other chemicals, as a solvent, and is found in gasoline.

REASON FOR CITATION

* Benzene is on the Workplace Hazardous Substance List because it is regulated by OSHA.
* This chemical is also on the Special Health Hazard Substance List because it is a CANCER-CAUSING AGENT, a MUTAGEN and is FLAMMABLE.
* Definitions are provided on page 5.

WORKPLACE EXPOSURE LIMITS

OSHA: The legal airborne permissible exposure limit (PEL) is 10 ppm averaged over an 8-hour workshift and 25 ppm as a ceiling limit, and 50 ppm which should not be exceeded in any 10 minute period.

NIOSH: The recommended airborne exposure limit is 10 ppm averaged over an 8-hour workshift and 25 ppm, not to be exceeded during any 10 minute work period.

* Benzene is a CANCER-CAUSING AGENT in humans. There may be no safe level of exposure to a carcinogen, so all contact should be reduced to the lowest possible level.
* The above exposure limits are for air levels only. Skin contact may also cause overexposure.

HOW TO DETERMINE IF YOU ARE BEING EXPOSED

* Exposure to hazardous substances should be routinely evaluated. This may include collecting air samples. Under OSHA 1910.20, you have a legal right to obtain copies of sampling results from you employer. If you think you are experiencing any work-related health problems, see a doctor trained to recognize occupational diseases. Take this Fact Sheet with you.
* ODOR THRESHOLD = 12.0 ppm.
* The odor threshold only serves as a warning of exposure. Not smelling it does not mean you are not being exposed.

WAYS OF REDUCING EXPOSURE

* A regulated, marked area should be established where Benzene is handled, used, or stored.
* Wear protective work clothing.
* Wash thoroughly immediately after exposure to Benzene and at the end of the workshift.
* Post hazard and warning information in the work area. In addition, as part of an ongoing education and training effort, communicate all information on the health and safety hazards of Benzene to potentially exposed workers.

This Fact Sheet is a summary source of information for workers, employers, and community residents. Health professionals may also find it useful. If this substance is part of a mixture, this Fact Sheet should be used along with the manufacturer-supplied Material Safety Data Sheet (MSDS).

HEALTH HAZARD INFORMATION

Acute Health Effects

The following acute (short-term) health effects may occur immediately or shortly after exposure to Benzene:

* Exposure can cause symptoms of dizziness, lightheadedness, headache, and vomiting. Convulsions and coma, or sudden death from irregular heart beat, may follow high exposures.
* Exposure can also irritate the eyes, nose, and throat.

Chronic Health Effects

The following chronic (long-term) health effects can occur at some time after exposure to Benzene and can last for months or years:

Cancer Hazard

* Benzene is a CANCER-CAUSING AGENT in humans. It has been shown to cause leukemia.
* Many scientists believe there is no safe level of exposure to a cancer-causing agent.

Reproductive Hazard

* There is limited evidence that Benzene is a teratogen in animals. Until further testing has been done, it should be treated as a possible teratogen in humans.

Other Long-Term Effects

* Repeated exposure can damage the blood-forming organs (aplastic anemia) enough to cause death.
* Long-term exposure may cause drying and scaling of the skin.

MEDICAL

Medical Testing

Before beginning employment and at regular times after that, the following are recommended:

* Complete blood count
* Urinary phenol (a test to see if Benzene is in the body).

These should be repeated if symptoms develop or overexposure is suspected.

Any evaluation should include a careful history of past and present symptoms with an exam. Medical tests that look for damage already done are <u>not</u> a substitute for controlling exposure.

Request copies of your medical testing. You have a legal right to this information under OSHA 1910.20.

WORKPLACE CONTROLS AND PRACTICES

Unless a less toxic chemical can be substituted for a hazardous substance, ENGINEERING CONTROLS are the most effective way of reducing exposure. The best protection is enclosing operations and/or providing local exhaust ventilation at the site of chemical release. Isolating operations can also reduce exposure. Using respirators or protective equipment is less effective than the controls mentioned above, but is sometimes necessary.

In evaluating the controls present in your workplace, consider: (1) how hazardous the substance is; (2) how much of the substance is released into the workplace, and (3) whether harmful skin or eye contact could occur. Better controls should be in place for highly toxic chemicals or when significant skin, eye, or breathing exposures are possible.

In addition, the following controls are recommended:

* Where possible, automatically pump liquid Benzene from drums or other storage containers to process containers.
* Specific engineering controls are recommended for this chemical by NIOSH. Refer to the NIOSH criteria documents

on *Benzene # 74-137 and "Refined Petroleum Solvents" # 77-192.*

Good WORK PRACTICES can help to reduce hazardous exposures. The following work practices are recommended:

* Workers whose clothing has been contaminated by Benzene should change into clean clothing promptly.
* Do not take contaminated work clothes home. Family members could be exposed.
* Contaminated work clothes should be laundered by individuals who have been informed of the hazards of exposure to Benzene.
* On skin contact with Benzene, immediately wash or shower to remove the chemical.
* Wash any areas of the body that may have contacted Benzene at the end of each work day, whether or not known skin contact has occurred.
* Do not eat, smoke, or drink where Benzene is handled, processed, or stored, since the chemical can be swallowed. Wash hands carefully before eating or smoking.

PERSONAL PROTECTIVE EQUIPMENT

WORKPLACE CONTROLS ARE BETTER THAN PERSONAL PROTECTIVE EQUIPMENT. However, for some jobs (such as outside work, confined space entry, jobs done only once in a while, or jobs done while workplace controls are being installed), personal protective equipment may be appropriate.

The following recommendations are only guidelines and may not apply to every situation.

Clothing

* Avoid skin contact with Benzene. Wear solvent-resistant gloves and clothing. Safety equipment suppliers/ manufacturers can provide recommendations on the most protective glove/clothing material for your operation.
* All protective clothing (suits, gloves, footwear, headgear) should be clean, available each day, and put on before work.
* ACGIH recommends *VITON* gloves for short periods of protection.

Eye Protection

* Eye protection is included in the recommended respiratory protection.

Respiratory Protection

IMPROPER USE OF RESPIRATORS IS DANGEROUS. Such equipment should only be used if the employer has a written program that takes into account workplace conditions, requirements for worker training, respirator fit testing, and medical exams, as described in OSHA 1910.134.

* At <u>any</u> exposure level, use an MSHA/NIOSH approved supplied-air respirator with a full facepiece operated in the positive pressure mode or with a full facepiece, hood, or helmet in the continuous flow mode, or use an MSHA/NIOSH approved self-contained breathing apparatus with a full facepiece operated in pressure-demand or other positive pressure mode.

HANDLING AND STORAGE

* Prior to working with Benzene you should be trained on its proper handling and storage.
* Benzene must be stored to avoid contact with OXIDIZERS (such as PERMANGANATES, NITRATES, PEROXIDES, CHLORATES, and PERCHLORATES), since violent reactions occur.
* Store in tightly closed containers in a cool well-ventilated area away from HEAT, STRONG OXIDIZERS (such as CHLORINE and BROMINE) and IRON.
* Sources of ignition such as smoking and open flames are prohibited where Benzene is handled, used, or stored.
* Metal containers involving the transfer of 5 gallons or more of Benzene should be grounded and bonded. Drums must be equipped with self-closing valves, pressure vacuum bungs, and flame arresters.
* Wherever Benzene is used, handled, manufactured, or stored, use explosion-proof electrical equipment and fittings.

QUESTIONS AND ANSWERS

Q: If I have acute health effects, will I later get chronic health effects?

A: Not always. Most chronic (long-term) effects result from repeated exposures to a chemical.

Q: Can I get long-term effects without ever having short-term effects?
A: Yes, because long-term effects can occur from repeated exposures to a chemical at levels not high enough to make you immediately sick.

Q: What are my chances of getting sick when I have been exposed to chemicals?
A: The likelihood of becoming sick from chemicals is increased as the amount of exposure increases. This is determined by the length of time someone is exposed and the amount of material they are exposed to.

Q: Is the risk of getting sick higher for workers than for community residents?
A: Yes. Exposures in the community, except possibly in cases of fires or spills, are usually much lower than those found in the workplace. However, people in the community may be exposed to contaminated water as well as to chemicals in the air over long periods. Because of this, and because of exposure of children or people who are already ill, community exposures may cause health problems.

Q: Don't all chemicals cause cancer?
A: No. Most chemicals tested by scientists are not cancer-causing.

Q: Aren't pregnant women at the greatest risk from reproductive hazards?
A: Not necessarily. Pregnant women are at greatest risk from chemicals which harm the developing fetus. However, chemicals may affect the <u>ability</u> to have children, so both men and women of child-bearing age are at high risk.

Q: Should I be concerned if a chemical is a teratogen in animals?
A: Yes. Although some chemicals may affect humans differently than they affect animals, damage to animals suggests that similar damage can occur in humans.

HAZARDOUS SUBSTANCE FACT SHEET

Contents prepared by the
New Jersey Department of Health
Right to Know Program

Distributed by the United States
Environmental Protection Agency
Office of Toxic Substances

Common Name: TOLUENE

CAS Number: 108-88-3
DOT Number: UN 1294

RTK Substance number: 1866
Date: 11/3/86

HAZARD SUMMARY

* Toluene can affect you when breathed in and by passing through your skin.
* Toluene may cause mutations. Handle with extreme caution.
* It may damage the developing fetus.
* Toluene is a FLAMMABLE LIQUID and a FIRE HAZARD.
* Exposure can irritate the nose, throat, and eyes. Higher levels can cause you to feel dizzy, lightheaded, and to pass out. Death can occur.
* Repeated exposures can damage bone marrow causing low blood cell count. It can also damage the liver and kidneys.
* Toluene can cause slowed reflexes, trouble concentrating, and headaches.
* Prolonged contact can cause a skin rash.

IDENTIFICATION

Toluene is a colorless liquid with a sweet pungent odor. It is used as a solvent and in aviation gasoline, making other chemicals, perfumes, medicines, dyes, explosives, and detergents.

REASON FOR CITATION

* Toluene is on the Workplace Substance List because it is regulated by OSHA and cited by ACGIH, DOT, NIOSH, NFPA and other authorities.
* This chemical is on the Special Health Hazard Substance List because it is FLAMMABLE.
* Definitions are attached.

HOW TO DETERMINE IF YOU ARE BEING EXPOSED

* Exposure to hazardous substances should be routinely evaluated. This may include collecting air samples. Under OSHA 1910.20, you have a legal right to obtain copies of sampling results from your employer. If you think you are experiencing any work-related health problems, see a doctor trained to recognize occupational diseases. Take this Fact Sheet with you.
* ODOR THRESHOLD = 2.9 ppm.
* The odor threshold only serves as a warning of exposure. Not smelling it does not mean you are not being exposed.

WORKPLACE EXPOSURE LIMITS

OSHA: The legal airborne permissible exposure limit (PEL) is 200 ppm averaged over an 8-hour workshift and 300 ppm, not to be exceeded during any 15 minute work period and a maximum peak concentration of 500 ppm.

NIOSH: The recommended airborne exposure limit is 100 ppm averaged over an 8-hour workshift and 200 ppm, not to be exceeded during any 10 minute work period.

* The above exposure limits are for air levels only.
* Toluene may cause mutations. All contact with this chemical should be reduced to the lowest possible level.

WAYS OF REDUCING EXPOSURE

* Where possible, enclose operations and use local exhaust ventilation at the site of chemical release. If local exhaust ventilation or enclosure is not used, respirators should be worn.
* Wear protective work clothing.
* Wash thoroughly immediately after exposure to Toluene and at the end of the workshift.
* Post hazard and warning information in the work area. In addition, as part of an ongoing education and training effort, communicate all information on the health and safety hazards of Toluene to potentially exposed workers.

This Fact Sheet is a summary source of information of all potential and most severe health hazards that may result from exposure. Duration of exposure, concentration of the substance and other factors will affect your susceptibility to any of the potential effects described below.

HEALTH HAZARD INFORMATION

Acute Health Effects

The following acute (short-term) health effects may occur immediately or shortly after exposure to Toluene:

* Exposure can irritate the nose, throat, and eyes. Higher levels can cause you to feel dizzy, lightheaded, and to pass out. Death can occur.
* Lower levels may cause trouble concentrating, headaches, and slowed reflexes.

Chronic Health Effects

The following chronic (long-term) health effects can occur at some time after exposure to Toluene and can last for months or years:

Cancer Hazard

* Toluene may cause mutations (genetic changes) in living cells. Whether or not it poses a cancer hazard needs further study.

Reproductive Hazard

* Toluene may damage the developing fetus.

Other Long-Term Effects

* Repeated exposure may damage bone marrow, causing low blood cell count.
* Prolonged contact can cause drying and cracking of the skin, and a rash.
* Repeated Toluene exposure can cause headaches, loss of appetite, nausea, and liver and kidney damage, and may cause brain damage.

MEDICAL TESTING

For those with frequent or potentially high exposure (half the TLV or greater, or significant skin contact), the following is recommended before beginning work and at regular times after that:

* Urinary Hippuric acid excretion (at the end of shift) as an index of overexposure.

If symptoms develop or overexposure is suspected, the following may be useful:

* Exam of the nervous system.
* Liver and kidney function tests, an evaluation for renal tubular acidosis.
* Complete blood count.

Any evaluation should include a careful history of past and present symptoms with an exam. Medical tests that look for damage already done are not a substitute for controlling exposure.

Request copies of your medical testing. You have a legal right to this information under OSHA 1910.20.

WORKPLACE CONTROLS AND PRACTICES

Unless a less toxic chemical can be substituted for a hazardous substance, ENGINEERING CONTROLS are the most effective way of reducing exposure. The best protection is to enclose operations and provide local exhaust ventilation at the site of chemical release. Isolating operations can also reduce exposure. Using respirators or protective equipment is less effective than the controls mentioned above, but is sometimes necessary.

In evaluating the controls present in your workplace, consider: (1) how hazardous the substance is, (2) how much of the substance is released into the workplace and (3) whether harmful skin or eye contact could occur. Special controls should be in place for highly toxic chemicals or when significant skin, eye, or breathing exposures are possible.

In addition, the following controls are recommended:

* Where possible, automatically pump liquid Toluene from drums or other storage containers to process containers.
* Specific engineering controls are recommended for this chemical by NIOSH.
* Refer to the NIOSH criteria document, Occupational Exposure to *Toluene #73-11023*.

Good WORK PRACTICES can help to reduce hazardous exposures. The following work practices are recommended:

* Workers whose clothing has been contaminated by **Toluene** should change into clean clothing promptly.
* Contaminated work clothes should be laundered by individuals who have been informed of the hazards of exposure to **Toluene**.
* On skin contact with **Toluene**, immediately wash or shower to remove the chemical. At the end of the workshift, wash any areas of the body that may have contacted **Toluene**, whether or not known skin contact has occurred.
* Do not eat, smoke, or drink where **Toluene** is handled, processed, or stored, since the chemical can be swallowed. Wash hands carefully before eating or smoking.

PERSONAL PROTECTIVE EQUIPMENT

WORKPLACE CONTROLS ARE BETTER THAN PERSONAL PROTECTIVE EQUIPMENT. However, for some jobs (such as outside work, confined space entry, jobs done only once in a while, or jobs done while workplace controls are being installed), personal protective equipment may be appropriate.

The following recommendations are only guidelines and may not apply to every situation.

Clothing

* Avoid skin contact with **Toluene**. Wear solvent-resistant gloves and clothing. Safety equipment suppliers/manufacturers can provide recommendations on the most protective glove/clothing material for your operation.
* All protective clothing (suits, gloves, footwear, headgear) shbuld be clean, available each day, and put on before work.
* ACGIH recommends *VITON* and *Fluorene/Chloroprene* as protective materials.

Eye Protection

* Wear splash-proof chemical goggles an face shield when working with liquid unless full facepiece respiratory pro tection is worn.

Respiratory Protection

IMPROPER USE OF RESPIRATORS IS DANGEROUS Such equipment should only be used if th employer has a written program that take into account workplace conditions, requirements for worker training, respirato fit testing and medical exams, as described in OSHA 1910.134.

* Where the potential exists for exposures over 100 ppm, use an MSHA/NIOS approved full facepiece respirator wit an organic vapor cartridge/canister. Increased protection is obtained fro full facepiece powered air purifyin respirators.
* If while wearing a filter, cartridge o canister respirator, you can smell, taste, or otherwise detect Toluene, or in the case of a full facepiece respirator you experience eye irritation, leave the area immediately. Check to make sure the respirator-to-face seal is still good. If it is, replace the filter, cartridge, or canister. If the seal is no longer good, you may need a new respirator.
* Be sure to consider all potential exposures in your workplace. You may need a combination of filters, prefilters, cartridges, or canisters to protect against different forms of a chemical (such as vapor and mist) or against a mixture of chemicals.
* Exposure to 2,000 ppm is immediately dangerous to life and health. If the possibility of exposures above 2,000 ppm exists, use a MSHA/NIOSH approved self-contained breathing apparatus with a full facepiece operated in continuous flow or other positive pressure mode.

HANDLING AND STORAGE

* Prior to working with **Toluene** you should be trained on its proper handling and storage.
* **Toluene** must be stored to avoid n- tact with STRONG OXIDIZERS (such as CHLORINE, BROMINE and FLUORINE) since violent reactions occur.

* Protect storage containers from physical damage.
* Sources of ignition, such as smoking and open flames, are prohibited where Toluene is used, handled, or stored in a manner that could create a potential fire or explosion hazard.
* Metal containers involving the transfer of 5 gallons or more of Toluene should be grounded and bonded. Drums must be equipped with self-closing valves, pressure vacuum bungs, and flame arresters.
* Use only non-sparking tools and equipment, especially when opening and closing containers of Toluene.

QUESTIONS AND ANSWERS

Q: If I have acute health effects, will I later get chronic health effects?
A: Not always. Most chronic (long-term) effects result from repeated exposures to a chemical.

Q: Can I get long-term effects without ever having short-term effects?
A: Yes, because long-term effects can occur from repeated exposures to a chemical at levels not high enough to make you immediately sick.

Q: What are my chances of getting sick when I have been exposed to chemicals?
A: The likelihood of becoming sick from chemicals is increased as the amount of exposure increases. This is determined by the length of time and the amount of material to which someone is exposed.

Q: When are higher exposures more likely?
A: Conditions which increase risk of exposure include dust releasing operations (grinding, mixing, blasting, dumping, etc.), other physical and mechanical processes (heating, pouring, spraying, spills and evaporation from large surface areas such as open containers), and "confined space" exposures (working inside vats, reactors, boilers, small rooms, etc.).

Is the risk of getting sick higher for workers than for community residents?
A: Yes. Exposures in the community, except possibly in cases of fires or spills, are usually much lower than those found in the workplace. However, people in the community may be exposed to contaminated water as well as to chemicals in the air over long periods. Because of this, and because of exposure of children or people who are already ill, community exposure may cause health problems.

Q: Don't all chemicals cause cancer?
A: No. Most chemicals tested by scientists are not cancer-causing.

Q: Who is at the greatest risk from reproductive hazards?
A: Pregnant women are at greatest risk from chemicals that harm the developing fetus. However, chemicals may affect the ability to have children, so both men and women of childbearing age are at high risk.

HAZARDOUS SUBSTANCE FACT SHEET

Contents prepared by the
New Jersey Department of Health
Right to Know Program

Distributed by the United States
Environmental Protection Agency
Office of Toxic Substances

Common Name: XYLENES

CAS Number: 1330-20-7
DOT Number: UN 1307

RTK Substance number: 2014
Date: 11/3/86

HAZARD SUMMARY

* Xylenes can affect you when breathed in and by passing through your skin.
* Xylenes may damage the developing fetus.
* They can irritate the eyes, nose and throat. High levels can cause dizziness, passing out and death.
* Repeated exposure may damage bone marrow causing low blood cell count. They may also damage the eyes, and cause stomach problems.
* Xylenes may cause problems with memory and concentration.
* Xylenes are FLAMMABLE LIQUIDS and FIRE HAZARDS.

IDENTIFICATION

Xylenes are all similar chemicals forming a clear liquid with a strong odor. They are used as solvents and in making drugs, dyes, insecticides and gasoline.

REASON FOR CITATION

* Xylenes are on the Hazardous Substance List because they are regulated by OSHA and cited by ACGIH, DOT, NIOSH, NFPA and other authorities.
* These chemicals are on the Special Health Hazard Substance List because they are FLAMMABLE.
* Definitions are attached.

HOW TO DETERMINE IF YOU ARE BEING EXPOSED

* Exposure to hazardous substances should be routinely evaluated. This may include collecting air samples. Under OSHA 1910.20, you have a legal right to obtain copies of sampling results from your employer. If you think you are experiencing any work-related health problems, see a doctor trained to recognize occupational diseases. Take this Fact Sheet with you.
* ODOR THRESHOLD = 1.1 ppm.
* The odor threshold only serves as a warning of exposure. Not smelling it does not mean you are not being exposed.

WORKPLACE EXPOSURE LIMITS

OSHA: The legal airborne permissible exposure limit (PEL) is 100 ppm averaged over an 8-hour workshift.

NIOSH: The recommended airborne exposure limit is 100 ppm averaged over a 10-hour workshift and 200 ppm, not to be exceeded during any 10 minute work period.

ACGIH: The recommended airborne exposure limit is 100 ppm averaged over an 8-hour workshift and 150 ppm as a STEL (short term exposure limit).

* The above exposure limits are for air levels only. When skin contact also occurs, you may be overexposed, even though air levels are less than the limits listed above.

WAYS OF REDUCING EXPOSURE

* Where possible, enclose operations and use local exhaust ventilation at the site of chemical release. If local exhaust ventilation or enclosure is not used, respirators should be worn.
* Wear protective work clothing.
* Wash thoroughly immediately after exposure to Xylenes and at the end of the workshift.
* Post hazard and warning information in the work area. In addition, as part of an ongoing education and training effort, communicate all information on the health and safety hazards of Xylenes to potentially exposed workers.

This Fact Sheet is a summary source of information of all potential and most severe health hazards that may result from exposure. Duration of exposure, concentration of the substance and other factors will affect your susceptibility to any of the potential effects described below.

HEALTH HAZARD INFORMATION

Acute Health Effects

The following acute (short-term) health effects may occur immediately or shortly after exposure to Xylenes:

* Exposure can irritate the eyes, nose and throat. It can also cause headaches, nausea and vomiting, tiredness and stomach upset. High levels can cause you to feel dizzy and lightheaded, and to pass out. Very high levels can cause death.

Chronic Health Effects

The following chronic (long-term) health effects can occur at some time after exposure to Xylenes and can last for months or years:

Cancer Hazard

* According to the information presently available to the New Jersey Department of Health, Xylenes have not been tested for their ability to cause cancer in animals.

Reproductive Hazard

* Xylenes may damage the developing fetus.

Other Long-Term Effects

* Repeated exposure can damage bone marrow, causing low blood cell count.
* Xylenes can damage the liver and kidneys.
* Prolonged contact can cause drying and cracking of the skin.
* Repeated exposure to Xylenes can cause poor memory, concentration and other brain effects. It can also cause damage to the surface of the eye.

MEDICAL

Medical Testing

For those with frequent or potenti high exposure (half the TLV or greater significant skin contact), the follow is recommended before beginning work and at regular times after that:

* Exam of the eyes by slit lamp.

If symptoms develop or overexposure is suspected, the following may be useful:

* Liver and kidney function tests.
* Complete blood count.
* Urine concentration of m-Methylhippuric Acid (at the end of shift) as an index of overexposure.

Any evaluation should include a careful history of past and present symptoms with an exam. Medical tests that look for damage already done are not a substitute for controlling exposure.

Request copies of your medical testing. You have a legal right to this information under OSHA 1910.20.

Mixed Exposures

Because more than light alcohol consumption can cause liver damage, drinking alcohol can increase the liver damage caused by Xylenes.

WORKPLACE CONTROLS AND PRACTICES

Unless a less toxic chemical can be substituted for a hazardous substance, ENGINEERING CONTROLS are the most effective way of reducing exposure. The best protection is to enclose operations and/or provide local exhaust ventilation at the site of chemical release. Isolating operations can also reduce exposure. Using respirators or protective equipment is less effective than the controls mentioned above, but is sometimes necessary.

In evaluating the controls present in your workplace, consider: (1) how hazardous the substance is, (2) how much of the substance is released into the workplace (3) whether harmful skin or eye cont could occur. Special controls should e in place for highly toxic chemicals or

when significant skin, eye, or breathing exposures are possible.

In addition, the following controls are recommended:

* Where possible, automatically pump liquid Xylenes from drums or other storage containers to process containers.
* Specific engineering controls are recommended for these chemicals by NIOSH. Refer to the NIOSH criteria document: Occupational Exposure to *Xylenes #75-168*.

Good WORK PRACTICES can help to reduce hazardous exposures. The following work practices are recommended:

* Workers whose clothing has been contaminated by Xylenes should change into clean clothing promptly.
* Contaminated work clothes should be laundered by individuals who have been informed of the hazards of exposure to Xylenes.
* On skin contact with Xylenes, immediately wash or shower to remove the chemicals. At the end of the workshift, wash any areas of the body that may have contacted Xylenes, whether or not known skin contact has occurred.
* Do not eat, smoke, or drink where Xylenes are handled, processed, or stored, since the chemicals can be swallowed. Wash hands carefully before eating or smoking.

PERSONAL PROTECTIVE EQUIPMENT

WORKPLACE CONTROLS ARE BETTER THAN PERSONAL PROTECTIVE EQUIPMENT. However, for some jobs (such as outside work, confined space entry, jobs done only once in a while, or jobs done while workplace controls are being installed), personal protective equipment may be appropriate.

The following recommendations are only guidelines and may not apply to every situation.

Clothing

* Avoid skin contact with Xylenes. Wear protective gloves and clothing. Safety equipment suppliers/manufacturers can provide recommendations on the mo protective glove/clothing material f your operation.
* All protective clothing (suits, gloves footwear, headgear) should be clean available each day, and put on befo work.
* ACGIH recommends the use of *Polyvinyl Alcohol* for protective material.

Eye Protection

* Wear splash-proof chemical goggles an face shield when working with liquid unless full facepiece respiratory pro tection is worn

Respiratory Protection

IMPROPER USE OF RESPIRATORS IS DANGEROUS Such equipment should only be used if th employer has a written program that take into account workplace conditions, re quirements for worker training, respirato fit testing and medical exams, as de scribed in OSHA 1910.134.

* Where the potential exists for exposures over 100 ppm, use a MSHA/NIOS approved full facepiece respirator wit an organic vapor cartridge/can ter. Increased protection is obtained fro full facepiece powered-air purifyin respirators.
* If while wearing a filter, cartridge o canister respirator, you can smell, taste, or otherwise detect Xylenes, o in the case of a full facepiece respirator you experience eye irritation, leave the area immediately. Check t make sure the respirator-to-face seal is still good. If it is, replace th filter, cartridge, or canister. If th seal is no longer good, you may need a new respirator.
* Be sure to consider all potential exposures in your workplace. You may need a combination of filters, prefilters, cartridges, or canisters to protect against different forms of a chemical (such as vapor and mist) or against a mixture of chemicals.
* Where the potential for high exposures exists, use a MSHA/NIOSH approved supplied-air respirator with a full facepiece operated in the positive pre mode or with a full facepiece, hood, or helmet in the continuous flow mode.

* Exposure to 10,000 ppm is immediately dangerous to life and health. If the possibility of exposures above 10,000 ppm exists use a MSHA/NIOSH approved self contained breathing apparatus with a full facepiece operated in continuous flow or other positive pressure mode.

HANDLING AND STORAGE

* Prior to working with Xylenes you should be trained on its proper handling and storage.
* Xylenes must be stored to avoid contact with STRONG OXIDIZERS (such as CHLORINE, BROMINE and FLUORINE) since violent reactions occur.
* Sources of ignition, such as smoking and open flames, are prohibited where Xylenes are used, handled, or stored in a manner that could create a potential fire or explosion hazard.
* Use only non-sparking tools and equipment, especially when opening and closing containers of Xylenes.
* Protect storage containers from physical damage.

QUESTIONS AND ANSWERS

Q: If I have acute health effects, will I later get chronic health effects?
A: Not always. Most chronic (long-term) effects result from repeated exposures to a chemical.

Q: Can I get long-term effects without ever having short-term effects?
A: Yes, because long-term effects can occur from repeated exposures to a chemical at levels not high enough to make you immediately sick.

Q: What are my chances of getting sick when I have been exposed to chemicals?
A: The likelihood of becoming sick from chemicals is increased as the amount of exposure increases. This is determined by the length of time and the amount of material to which someone is exposed.

Q: When are higher exposures more likely?
A: Conditions which increase risk of exposure include dust releasing operations (grinding, mixing, blasting, dumping, etc.), other physical and mechanical processes (heating, pouring, spraying, spills and evaporation from large surface areas such as open containers), and "confined space" exposures (working inside vats, reactors, boilers, small rooms, etc.).

Q: Is the risk of getting sick higher for workers than for community residents?
A: Yes. Exposures in the community, except possibly in cases of fires or spills, are usually much lower than those found in the workplace. However, people in the community may be exposed to contaminated water as well as to chemicals in the air over long periods. Because of this, and because of exposure of children or people who are already ill, community exposures may cause health problems.

Q: Who is at the greatest risk from reproductive hazards?
A: Pregnant women are at greatest risk from chemicals that harm the developing fetus. However, chemicals may affect the ability to have children, so both men and women of childbearing are at high risk.

The following individuals represented associations or agencies. Their participation and input is greatly appreciated.

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WORK SESSION
REQUEST FOR EQC DISCUSSION

Meeting Date: November 30, 1989
Agenda Item: 1
Division: Air Quality
Section: Vehicle Inspection

ISSUE:

The issue for discussion is whether or not the Department of Environmental Quality (DEQ, Department) should pursue the development and implementation of a Stage II Vapor Recovery program and, if so, the area of applicability and method of implementation.

Before further discussion on the subject, a brief description of Stage I and Stage II Vapor Recovery might be helpful.

Stage One Vapor Recovery (Stage I) is a system that ensures gasoline vapors from the storage tanks at service stations, which would normally be emitted into the atmosphere, are collected and ultimately routed to the terminal where they are either recovered or destroyed. This means that gasoline tank trucks must be equipped with a vapor return line and be vapor tight. All points in the transport system where the tanker truck is either filled or emptied, must be equipped with a compatible vapor return system.

As the gasoline flows from the tanker truck into the service station's storage tank, the liquid volume in the storage tank increases, resulting in a pressure which forces the vapors through the vapor return line into the tanker truck. The tanker truck then transports the vapors back to the terminal or bulk plant where they are collected, in a like manner, when the truck is refilled. The collected vapors are then either recovered through refrigerated condensation or destroyed through incineration.

Stage Two Vapor Recovery (Stage II) is a system that closes the vapor recovery loop by ensuring that the vapors in individual vehicle gas tanks are collected and routed into the service station's gasoline storage tank. Thus, with the combination of both Stage I and Stage II, vapors from the gas tank of motor vehicles are collected and ultimately end up being either recovered or destroyed at the bulk plant or

terminal. Stage I can provide environmental benefit on its own, but Stage II cannot provide a meaningful reduction in gasoline vapor emissions without Stage I.

The reduction of gasoline vapors which would otherwise be emitted provides at least a twofold benefit. First, since gasoline vapors are one of the components (precursors) which react in the atmosphere to create ground level (tropospheric) ozone, ambient concentrations of ozone are reduced. Second, because gasoline vapors also contain benzene, xylene, and toluene, which are known or suspected carcinogens, the amounts of these "air toxics" emitted into the environment will be reduced.

HISTORY:

The Portland metropolitan area has experienced violations of the health standard for ambient levels of ozone. After a number of years of effort to combat this problem, the area, as of the 1989 ozone season, is balanced on the edge of attainment of the health standard. The Environmental Quality Commission's (EQC, Commission) choice to adopt a 10.5 psi limit on the vapor pressure prior to the 1989 ozone season may have provided the reductions needed to avoid exceedances under the meteorological conditions of the 1989 ozone season. Certainly, the mild meteorological conditions during 1989 were helpful in that effort.

From the staff's point of view, however, DEQ's efforts should not stop the moment it appears that a healthful air quality has been achieved. It would seem prudent to pursue further reductions of these ozone precursor emissions for at least two reasons. First, it is not certain that the level of precursor emissions during future ozone seasons will be sufficient to avoid violations of the health standard under less than favorable meteorological conditions, such as those experienced in 1985 and 1988. A buffer, or margin of safety, is prudent to insure continued attainment.

Second, in order to provide the opportunity for a healthful economic environment, as well as a healthful natural environment, a portion of the assimilative capacity of the airshed that is currently in use needs to become available for reuse. Thus, an additional buffer, or margin of growth, is needed to accommodate and promote further economic development.

In addition, the potential for energy savings and reducing the contribution of toxic compounds, add further emphasis for consideration.

With this view in mind, the staff reviewed available reduction measures that were identified by the Portland Ozone Task Force but not yet implemented in the Portland metro area. Stage II would be an attractive control strategy based upon the magnitude of the reduction potential and the cost effectiveness in terms of dollars per ton of pollutant emissions reduced.

Subsequently, a group of individuals outside the Department were asked earlier this year to serve as a technical advisory committee on Stage II Vapor Recovery. Members of the group were selected in an attempt to ensure a committee of interested or affected entities which did not begin with a majority bias for or against the subject. At the initial meeting of the advisory committee, the mission of the committee was articulated to be twofold: to make a recommendation on whether or not to pursue Stage II Vapor Recovery as a control measure and, regardless of the outcome of the recommendation, to recommend an approach for implementation of a Stage II Vapor Recovery program.

A more in-depth discussion on the committee's deliberations and findings is attached (Attachment A). Some of the significant information which influenced the committee's recommendation are as follows:

* Stage II Vapor Recovery in the Portland metro area is anticipated to provide a reduction of 3000 tons of gasoline vapors per year. Cost estimates associated with Stage II Vapor Recovery range from $200 to $1000 per ton of pollutant reduced. In comparison, industrial controls established by the EQC in the current state implementation plan are calculated to provide a reduction of 5,295 tons per year (13,910 kg/day) of volatile organic vapors. Under these reasonable available control technology (RACT) strategies, costs of $2000 per ton of pollutant reduced have been considered attractive.

* Stage II Vapor Recovery cost effectiveness is significantly reduced for low throughput service stations, such as those with less than 10,000 gallons per month in gasoline sales.

* The impact of Stage II Vapor Recovery construction costs to the gasoline marketing industry can be reduced to the extent that installation of below ground piping can occur in conjunction with underground storage tank (UST) compliance efforts.

* Stage II Vapor Recovery provides a beneficial reduction in ambient concentrations of toxic/carcinogenic constituents of gasoline.

* Stage II Vapor Recovery has the potential to provide an energy conservation benefit through gasoline recovery of 0.5 to 2.0%.

* Stage II Vapor Recovery could result in gasoline costs increases of 0.2 - 1.1 cents per gallon. Areas with existing Stage II Vapor Recovery requirements have not been able to document gasoline price increases directly attributable to Stage II Vapor Recovery.

* One major metropolitan area (St. Louis, MO) recently was able to fully implement a Stage II Vapor Recovery program involving some 1200 service stations within 27 months. There are approximately 630 service stations within the Portland metro area and some 2500 service stations statewide.

* Clean Air Act re-authorization proposals would require Stage II Vapor Recovery for most ozone nonattainment areas. Those nonattainment areas which completely implement Stage II Vapor Recovery requirements during, or prior to, the 1990 base year might not be able to credit Stage II Vapor Recovery reductions towards annual percentage reduction requirements that are proposed.

* The benefits of Stage II Vapor Recovery would be lost without Stage I Vapor Recovery in place during service station fueling.

* U S Environmental Protection Agency (EPA) has recently proposed a nationwide requirement for Stage I Vapor Recovery on the basis of reduction of ambient benzene concentrations.

ALTERNATIVES CONSIDERED:

Besides background information on Stage II and the miscellaneous issues contained in the committee's report, the following alternatives were considered:

1. Require both Stage I and Stage II Vapor Recovery in the Portland metro area.

2. Require both Stage I and Stage II Vapor Recovery statewide.

3. Require both Stage I and Stage II Vapor Recovery on an expedited basis within the Portland metro area and on an extended schedule, in conjunction with UST schedules, for the remainder of the state.

4. Use county boundaries for any vapor recovery program proposed.

5. Exempt gasoline refueling stations with an average monthly throughput of 10,000 gallons of gasoline or less from Stage II Vapor Recovery requirements.

6. Exempt gasoline refueling stations with an average monthly throughput of 40,000 gallons of gasoline or less from Stage II Vapor Recovery requirements.

7. Do not implement Stage II Vapor Recovery unless, and until, required by EPA to do so.

RECOMMENDATIONS

The committee believes that Stage II Vapor Recovery can provide a significant reduction in ozone precursors and toxic air pollutants. The greatest need for ozone precursor reduction exists within the Portland metro area. While the overall reduction strategy is cost effective, the committee is sensitive to the issue that these costs must, in many cases, be borne by small independent service station owners. As a result, to the extent practicable, efforts should be made to minimize these costs through coordination of this control measure with other requirements currently imposed upon the gasoline marketing industry. As a result of the above, the committee recommends the following:

* The underground piping for Stage II Vapor Recovery be required to be constructed and set in place at the time of UST compliance or sooner, as determined through the rulemaking process - but not less than 24 months, at all gasoline refueling stations with an average monthly throughput of greater than 10,000 gallons of gasoline located within the county boundaries of Multnomah, Washington, and Clackamas counties.

* That Stage I Vapor Recovery be fully implemented at all gasoline refueling stations within the above named counties on the above described schedule.

* That the requirement for installation of the above ground components of the Stage II Vapor Recovery system and full operation of the system not be adopted until re-authorization of the Clean Air Act and base year considerations have been completed.

* That the installation of, at least, the underground piping for Stage II Vapor Recovery be strongly recommended as a prudent investment within the rest of the state for refueling stations with an average monthly throughput of greater than 10,000 gallons of gasoline.

The Department concurs with the recommendations of the committee as outlined above.

CONSIDERATIONS FOR JANUARY EQC WORK SESSION

An in-house work group has been assigned the task to determine the implementation costs associated with the above recommendations and to recommend approach(es) to implement a Stage II Vapor Recovery program in the most cost effective manner and to fund those costs. The report prepared by this work group will be provided to the commission for discussion during the January work session.

Approved:

Section: _____

Division: _____

Director: _____

Report Prepared By: William P. Jasper

Phone: 229-5081

Date Prepared: November 14, 1989

WPJ:l
VIP\AR1967
(11/14/89)

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Environmental Quality Commission

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WORK SESSION
REQUEST FOR EQC DISCUSSION

Meeting Date: January 18, 1990
Agenda Item: 2
Division: Air Quality
Section: Technical Services

SUBJECT:

Stage II Vapor Recovery: Continuation of 11/30/89 Work Session.

PURPOSE:

This report presents the findings of a Department of Environmental Quality (Department, DEQ) in-house work group which was assigned the task of determining implementation costs associated with operating a Stage II Vapor Recovery Program in Oregon.

ACTION REQUESTED:

_X_ Work Session Discussion
___ General Program Background
_X_ Potential Strategy, Policy, or Rules
___ Agenda Item ___ for Current Meeting
___ Other: (specify)

BACKGROUND:

At the November 30, 1989 Work Session the Environmental Quality Commission (Commission, EQC) discussed a report produced by the Technical Advisory Committee on Stage I/II Vapor Recovery. Among the recommendations of the Technical Advisory Committee were:

* "The underground piping for Stage II Vapor Recovery be required to be constructed and set in place at the time of Underground Storage Tank (UST) compliance or sooner, as determined through the rule making process - but not less than 24 months, at all gasoline refueling stations with an average monthly throughput of greater than

10,000 gallons of gasoline located within the county boundaries of Multnomah, Washington, and Clackamas counties."

* "That the requirement for implementation of the above ground components of the Stage II Vapor Recovery system and full operation of the system not be adopted until re-authorization of the Clean Air Act and base year considerations have been completed."

The Department concurred with the recommendations of the committee.

During October and early November a separate, in-house, task force met to determine the costs that would be incurred by the Department if Stage II Vapor Recovery were implemented in Oregon. This work group was also assigned the task of recommending an approach(es) to implement a Stage II Vapor Recovery program in the most cost effective manner and to fund the associated costs. The complete report of the in-house Stage II Funding Task Force is attached (Attachment A). The task force provided cost estimates for operating a program in the Portland Inspection and Maintenance (I/M) area and statewide. Because the Technical Advisory Committee has recommended that Stage II Vapor Recovery be implemented only within the boundaries of Multnomah, Washington, and Clackamas counties at this time, only the findings of the Stage II Funding Task Force relevant to the Portland I/M boundary area are included in the following list of findings:

* Costs to the Department would fall into five categories:

  Registration of Equipment to be regulated.
  Review and/or inspection of installation.
  Education of the regulated community.
  Periodic inspection and/or performance testing.
  Enforcement and follow up inspections.

* A stand alone Stage II Vapor Recovery program operated independently by the Air Quality Division in the Portland metro area would require 2 full time equivalents (FTE) and an annual budget of $125,000.

* Substantial cost savings are possible (as much as 50 percent) if a cooperative approach is taken. This approach would make use of existing programs in the Department of Agriculture's Weights & Measures Division

(which already inspects metering systems on all retail gasoline pumps), DEQ Underground Storage Tank Program (which already regulates and inspects some underground gasoline tank installations), and DEQ Regional Operations (which already does inspections and enforcement on many pollution sources). It is expected that the incremental costs associated with an increased work load on these programs would be substantially less than the cost of creating a new program from scratch.

* Start-up costs could be minimized by phasing in the program over a few years. A program could be started almost immediately by requiring that underground Stage II equipment be installed whenever new tanks are installed (administered by the UST program). Installation of above ground equipment would be required a year or more later and would have to be done by certified installers. Routine inspection of Stage II equipment would not have to begin for several months after installation.

ALTERNATIVES CONSIDERED BY THE DEPARTMENT:

Several potential funding mechanisms were considered. The options considered most promising by the Air Quality Division are listed below. Where possible, the estimated fee or fee increase that would be required to fund the entire program from one source is given. It should be recognized that the program could be funded by a combination of funding mechanisms.

1. Annual Operating Fee. This option would require that each pump at each retail (or card lock) gas station be assessed an annual operating permit fee of sufficient size so that the Department would receive $25.00 per pump. It may be possible to tie into the existing Weights and Measures fee collection system.

2. Vehicle Registration Fee Increase. This would require an increase in the current vehicle registration fee (assessed every other year) of sufficient size that the Department would receive $0.36 per vehicle.

3. Inspection and Maintenance Fee Increase. Based on the same assumptions as with the vehicle registration fees above, this would require an increase of $0.36 in the existing I/M fee collected every other year.

4. Underground Storage Tank Program Fees. It may be possible to use some UST fees to cover the underground aspects of a Stage II Vapor Recovery program.

5. Base Grant Increase. An increase in the Air Quality Base Grant provided by the Environmental Protection Agency (EPA) could be requested to pay for one FTE in the Air Quality Division to administer the program. Additional money to cover inspections and expenses of other Departments/Divisions would need to be raised in other ways.

6. Seed Money. It may be possible to obtain "seed" money for developmental/start-up costs. Potential sources include Department of Energy oil overcharge settlement funds and EPA waste minimization demonstration project funds. Current information indicates that these funds are already committed for the next year but they may be available in the next funding cycle.

DEPARTMENT RECOMMENDATION:

The Department recommends that a Stage II Vapor Recovery Program be implemented using a phased-in, cooperative approach to minimize costs. Because Stage II Vapor Recovery will affect a community that is already regulated by other programs (DEQ UST program and the Dept. of Agriculture Weights & Measures Division), it appears most cost effective and least confusing to the regulated community to tie Stage II into those existing programs rather than create a new program from scratch. This approach only requires adding an incremental cost to those existing programs. The Underground Storage Tank program should require that below ground Stage II equipment be installed whenever tanks are replaced in the Tri-County area. Adoption of a program to require installation, operation and inspection of above ground components of Stage II equipment should be adopted soon after reauthorization of the Clean Air Act.

Start-up resources should be generated by rearranging priorities within the Air Quality Division and by applying for seed money grants next year. The Department should request additional funding from the 1991 legislature to permanently support the program. This funding should be in the form of an annual operating permit fee applied to each gasoline pump.

In summary, the combined recommendation of the Technical Advisory Committee and the in-house Task Force on Stage II Vapor Recovery results in the implementation of a Stage II Vapor Recovery Program as follows:

Winter 1990: Issue press release and request gasoline retail association to alert all gasoline dispensers statewide, with average monthly throughput greater than 10,000 gallons, that it would be prudent to install underground piping for Stage II Vapor Recovery at the time of UST compliance.

Spring 1990: Request authorization for hearing on rules to require the installation of the underground piping for Stage II Vapor Recovery at all gasoline dispensing facilities with an average monthly throughput of greater than 10,000 gallons of gasoline located within Multnomah, Washington and Clackamas counties. The installations would be required to occur at the time of UST compliance or within 24-36 months (time frame to be finalized through rulemaking process) following the rule adoption, whichever occurs first.

Spring 1990: Request authorization for hearing on rules to require Stage I Vapor Recovery to be fully implemented within the above mentioned time frame for all gasoline refueling stations within Multnomah, Washington and Clackamas counties.

Spring 1990: Hold hearings.

Summer 1990: Recommend rulemaking for EQC adoption.

Fall 1990: Request authorization for hearing on rules to require the installation of the above ground Stage II Vapor Recovery components and operation of the Stage II system at all gasoline dispensing facilities in the counties of Multnomah, Washington and Clackamas with an average monthly throughput of greater than 10,000 gallons.

Fall 1990: Request authorization to asses an annual permit fee on a per nozzle basis for each gasoline dispensing facility subject to the

Stage II Vapor Recovery requirements. Effective date of the fee would be established so that the first annual fee would be required 12 months before Stage II Vapor Recovery is required to be fully operational. Approval of the E-Board or full Legislature would be sought before the fee could be implemented.

Approved:

Section: _____

Division: _____

Director: _____

Report Prepared By: D. Mitchell Wolgamott

Phone: 229-5713

Date Prepared: January 3, 1990

DMW:a
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REQUEST FOR EQC ACTION

Meeting Date: May 25, 1990
Agenda Item: A-3(b)
Division: Hazardous and Solid Waste Division
Section: Waste Reduction

SUBJECT:

Toxics Use Reduction and Hazardous Waste Reduction Rules (HB 3515)

PURPOSE:

To establish regulations for the purpose of implementing the planning, technical assistance and reporting requirements of the Toxics Use Reduction and Hazardous Waste Reduction Act of 1989.

ACTION REQUESTED:

___ Work Session Discussion
___ General Program Background
___ Potential Strategy, Policy, or Rules
___ Agenda Item ___ for Current Meeting
___ Other: (specify)

_X_ Authorize Rulemaking Hearing
___ Adopt Rules
Proposed Rules — Attachment A
Rulemaking Statements — Attachment B
Fiscal and Economic Impact Statement — Attachment C
Public Notice — Attachment D

___ Issue a Contested Case Order
___ Approve a Stipulated Order
___ Enter an Order
Proposed Order — Attachment ___

___ Approve Department Recommendation
___ Variance Request — Attachment ___
___ Exception to Rule — Attachment ___
___ Informational Report — Attachment ___
___ Other: (specify) — Attachment ___

DESCRIPTION OF REQUESTED ACTION:

Request authorization to conduct two public hearings to receive public comment on the draft regulations to implement the toxics use reduction and hazardous waste reduction program. The hearings are proposed to be held in Eugene and Portland.

The proposed rules contain the following key elements:

- Define the universe of toxics users subject to these requirements.
- Describe the minimum requirements for a toxics use reduction and hazardous waste reduction plan.
- Require that priority be given to implementing toxics use reduction measures over hazardous waste reduction measures where technically and economically feasible.
- Require the establishment of performance goals for reduction.
- Describe reporting requirements.
- Describe procedures for review of plans and progress reports by the Department of Environmental Quality (DEQ, Department).

AUTHORITY/NEED FOR ACTION:

X	Required by Statute: ORS 465.015 Enactment Date: July 24, 1989	Attachment E
___	Statutory Authority: _____	Attachment ___
___	Pursuant to Rule: _____	Attachment ___
___	Pursuant to Federal Law/Rule: _____	Attachment ___
___	Other:	Attachment ___

X Time Constraints: (explain)

The Environmental Quality Commission (EQC, Commission) is required by statute to adopt regulations for toxics use reduction and hazardous waste reduction plans and reporting requirements no later than September 1, 1990. In order to meet this requirement, the public hearings need to be held no later than July 10, 1990 so that final EQC action can be taken at the August 10, 1990 EQC meeting.

DEVELOPMENTAL BACKGROUND:

The Toxics Use Reduction and Hazardous Waste Reduction Act was passed by the Oregon Legislature in 1989 and signed into law by the Governor on July 24, 1989. This landmark legislation, which is aimed at pollution prevention rather than pollution control, was a result of negotiations between the Department of Environmental Quality, Oregon State Public Interest Research Group (OSPIRG), and industry groups such as American Electronics Association and Associated Oregon Industries. The legislation, as passed, was supported by all groups.

The rules proposed here are primarily interpretive in nature, rather than policy-making. The statutory requirements for toxics use reduction and hazardous waste reduction are specific in nature. Therefore, the regulations are procedural and clarifying. The proposed regulations outline the minimum requirements for toxics use reduction and hazardous waste reduction planning and reporting.

An Advisory Committee with representatives from affected industry as well as environmental organizations and the banking community has reviewed the proposed rules. Technical agency advisors have also been involved in the development of these proposed rules. The U.S. Environmental Protection Agency, the State Fire Marshal's office, Oregon OSHA, Washington Department of Ecology, Oregon State University, and the Department of Justice provided coordinating and technical advice.

Because the legislative mandate for a Toxics Use Reduction and Hazardous Waste Reduction Program is based on the premise that this is a self motivated effort for toxics users, the program to be implemented through these regulations is non-regulatory in nature. The primary role of the Department is to provide technical assistance and monitor and report to the legislature and to the public on progress toward actual reduction in the use of toxic substances and generation of hazardous waste. The primary role for affected toxics users is to plan for and implement changes in their operations that will result in actual reduction of toxic substances used and hazardous waste generated.

___ Advisory Committee Report/Recommendation — Attachment ___
___ Hearing Officer's Report/Recommendations — Attachment ___
___ Response to Testimony/Comments — Attachment ___
___ Prior EQC Agenda Items: (list) — Attachment ___

___ Other Related Reports/Rules/Statutes: Attachment ___

___ Supplemental Background Information Attachment ___

REGULATED/AFFECTED COMMUNITY CONSTRAINTS/CONSIDERATIONS:

There is general consensus among industry trade associations, environmentalists and the Department that a toxics use reduction and hazardous waste reduction program is good for both the environment and toxics users. However, some businesses and state and local governmental agencies in Oregon have a limited awareness and knowledge of toxic substances and hazardous waste in general. These groups will require more technical assistance than others and may find the reduction planning and reporting requirements more difficult to implement.

In addition to the general implementation considerations stated above, there are two specific issues related to the reporting requirements proposed in these regulations. First, the Department is required to report progress in reducing quantities of toxic substances and hazardous wastes to the 1991 and 1993 Legislatures. According to the statute and under the proposed rules, comparable reduction information will not be available before the end of calendar year 1993. Therefore, the Department will be unable to monitor or report to the legislature on progress in reduction before 1995. This is a statutory oversight. To address this oversight, the Department intends to rely on existing hazardous waste and toxic substance information to provide a general statement of the status of use and generation during the first three years of the program.

The second reporting issue relates to the additional reporting proposed in OAR 340-135-080. The proposed rules provide for information on performance goals, reduction measures implemented and impediments to reduction be reported on a voluntary basis to the Department annually beginning in 1992. Originally the Department considered proposing rules that would make it mandatory for this information to be reported. However, industries in Oregon raised concerns about the mandatory reporting. Of particular concern, by some industries, is the sensitive nature of the information and the legal authority to maintain the confidentiality of the information once it is reported. The Department's statutory authority to obtain this information is also challenged. Discussions with the Assistant Attorney General indicate that the Department clearly has a right to obtain this information. However, the ability to maintain the

confidentiality of the information if reported is less clear. Therefore, the Department is proposing that the information be voluntarily reported. In addition, the Department intends to review plans and annual progress reports at the facilities and collect information as needed.

This information is important because it provides a means for the Department to review implementation of the law and design a technical assistance program that fits the needs of toxics users in Oregon and leads to successful reduction.

PROGRAM CONSIDERATIONS:

The Toxics Use Reduction and Hazardous Waste Reduction Program is unique because the enabling legislation for this program mandates the Department, primarily a regulatory agency, to carry out technical assistance and information/ data management responsibilities. The statute explicitly requires that technical assistance efforts provided by the Department for toxics use reduction and hazardous waste reduction be kept separate from the compliance and enforcement responsibilities of the Department.

Resources available in the 1989-1991 budget for technical assistance program development and particularly for conducting an on-site technical assistance program are very limited. Three full-time staff in the Department's regional offices will be available beginning in late 1990 to provide on-site technical assistance for reduction plan preparation. Because of limited resources, the Department plans to establish environmental and demographic criteria for the purpose of targeting the technical assistance program for the most benefit. Even with these efforts, there will be many small businesses which will not get first-hand assistance in meeting the requirements proposed in these regulations. Workshops will be made available around the state to assist with reduction planning and implementation for these groups.

Additional resources are needed to develop an adequate data management system that provides for timely analysis of the reported reduction information and coordination with other reporting under the Resource Conservation and Recovery Act (RCRA) Hazardous Waste Program, and Superfund Amendment and Reauthorization Act (SARA) Title III. The Department has requested additional funding from the U.S. Environmental Protection Agency for this purpose and is planning to consolidate information management for RCRA hazardous waste information and toxics use reduction and hazardous waste reduction information requirements.

Oregon is one of the first states in the country, and the first state in this region, to begin implementation of a Toxics Use Reduction and Hazardous Waste Reduction Program. Because of this, many states, industries and the federal government are looking at the Oregon program as a model for what may happen throughout the country in the next several years. This is an opportunity for Oregon to lead the way for successful pollution prevention.

ALTERNATIVES CONSIDERED BY THE DEPARTMENT:

Regarding the 1991 and 1993 reports to the legislature, the Department evaluated two alternatives in an attempt to address the need to report on progress in reducing quantities of toxics used and hazardous waste generated. The alternatives are briefly described below. Because there are problems with both alternatives, the Department plans to use existing RCRA hazardous waste generator information and existing SARA Title III information (Alternative 1) to describe the status of toxic use and hazardous waste generation as we know it today and explain to the legislature that the baseline for measuring progress in reduction will be established in 1992 and 1993. The alternatives initially considered were:

1. To measure progress in reduction, use existing reporting information under RCRA Hazardous Waste Program and SARA Title III reporting information under Sections 312 and 313 to establish baseline data.

   This alternative is not feasible for measuring progress in reduction because the universe of reporters in some cases does not include small quantity generators, and the data reported are not representative of use and generation. The information available through Section 313 reporting is for releases of toxic substances, rather than use of toxic substances. The hazardous waste generation information is for off-site shipments of waste only. The total amount of waste generated is not reported.

2. Request that data on quantities of toxics used and hazardous waste generated be provided at the same time that a toxics user notifies the Department that they have completed their reduction plan.

This alternative is not provided for in statute. Industry representatives on the Advisory Committee are strongly opposed to this option, therefore, voluntary submittal of the data does not seem likely.

To address the issue regarding the additional reporting requirements proposed in OAR 340-135-080, the following alternatives were considered:

1. Rather than require reports, physically send Department staff to the toxics user's facility, review the completed plans and progress reports and record the information on performance goals, reduction measures implemented, and impediments to reduction.

   This alternative is extremely resource-intensive. This process would guarantee, however, that the information would be available to the Department in a timely and complete manner and would give the Department the ability to evaluate substantive information for an effective technical assistance program and also provide a reliable and predictable trend analysis on the potential success of the reduction program.

2. Do not require or request the information on performance goals, reduction measures and impediments to reduction.

   This alternative would not allow for comprehensive first-hand information on reduction methods on which to base a technical assistance program and provide technology transfer, nor would it provide a mechanism for collecting statewide information to evaluate the potential for successful reduction.

3. Request, by rule, that the information on performance goals, reduction measures implemented, and impediments to reduction be reported on an optional basis.

   The information reported would not be maintained as confidential. If the reporting requirement is optional and the information reported is public record, there may be a possibility that toxics users would choose not to report the information.

4. By rule, make it a mandatory requirement to report the information on performance goals, reduction measures implemented, and impediments to reduction. This information is to be reported as an administrative convenience to the Department, and provide by rule that it shall be treated as part of the plan and annual progress report that is required to be maintained as non-public record.

This would ensure that the information is collected on a statewide basis and is available to the Department for developing and targeting an effective technical assistance program and for evaluating the problems and successes of implementing the Toxics Use Reduction and Hazardous Waste Reduction Program. This alternative is an efficient means of collecting the information. However, if the confidentiality of the reported information is challenged, it is not clear that the Department could maintain the information as confidential.

DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:

The Department recommends proposing rules using Alternative 3 in combination with Alternative 1; making the additional reporting requirements optional and utilizing Department resources to go to the facilities and review plans and progress reports and collect information.

Proposing rules that allow for the additional reporting requirements to be optional and at the same time planning to physically visit facilities to review the reduction plans and progress reports will alleviate the concerns about required reporting and give the Department the ability to review implementation of the law and fine tune its technical assistance program. By making the additional reporting requirements optional, toxics users who are not concerned about confidentiality can report the information to the Department, and toxics users who are concerned will not be placed in jeopardy.

CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE POLICY:

The toxics use reduction and hazardous waste reduction proposed rules are consistent with and support Strategic Goals 2 and 3 in the Department's Strategic Plan. The proposed rules specifically relate to High Priority Number 4 for the Hazardous and Solid Waste Program. If the recommended alternative on reporting requirements is not adopted, there is a potential inconsistency with Goal 2 of the Strategic Plan, in that the Department's ability to monitor and evaluate trends in order to anticipate problems and develop problem-preventative strategies would be hindered

in the area of pollution prevention. These rules as proposed are generally consistent with agency and legislative policy. It should be noted, however, that due to a statutory oversight, the Commission's required report to the 1991 and 1993 Legislatures may not meet the expectations of the legislative assembly. It is the intent of the Department to report on the status of toxics use and hazardous waste generation using existing data. However, progress in quantities reduced will not be reported.

ISSUES FOR COMMISSION TO RESOLVE:

1. OAR 340-135-080, Additional Reporting Requirements - The Department proposes to make additional reporting voluntary.

   Should the Department proceed with the proposed rules as drafted, or should the Department propose to make the additional reporting mandatory?

2. Does the Commission have any early comments on the rules as proposed?

INTENDED FOLLOWUP ACTIONS:

a. Receive public input through public hearings and written testimony on July 9, 10, 1990.

b. Evaluate comments and review final proposed rule with Advisory Committee.

c. Prepare a report, response to public comment, and recommend rule adoption as appropriate at the August 10, 1990 Commission meeting.

Approved:
Section:
Division:
Director:

Report Prepared By: Jan Whitworth
Phone: 229-6434
Date Prepared: April 18, 1990

JW:b
RECY\YB9546
April 20, 1990

Attachment A
Agenda Item A-3(b)
May 25, 1990

TOXICS USE REDUCTION AND HAZARDOUS WASTE REDUCTION REGULATIONS

OAR CHAPTER 340 DIVISION 135

OAR 340-135-000 Purpose

The rules within this Division establish the minimum requirements for toxics use reduction and hazardous waste reduction. Other federal, state and local programs may contain additional requirements. The primary purpose of these rules is to describe the comprehensive planning requirements for toxic use reduction and hazardous waste reduction, assure measurable performance goals, and monitor the use and reduction of toxic substance and generation and reduction of hazardous waste. The rules are adopted pursuant to the authority of and are to be used in conjunction with ORS Chapter 465.003 through 465.037.

OAR 340-135-010 General Policies

(a) Reduction in the use of toxic substances and reduction in the generation of hazardous waste is encouraged when technically and economically practicable without shifting risks from one part of a process, environmental media or product to another.

(b) Priority shall be given to reduction methods that reduce the amount of toxics used and, where that is not technically and economically practicable, methods that reduce the generation of hazardous waste.

(c) The Department shall attempt to coordinate with other state and federal toxics use and hazardous waste programs. Special emphasis shall be placed on data and information sharing where practicable, training programs, technology transfer.

(d) Methods that reduce the quantity and toxicity of hazardous waste generated should have priority over management methods that reuse hazardous waste, recycle hazardous waste that cannot be reused, treat hazardous waste, or dispose of hazardous waste by landfilling.

OAR 340-135-020 Definitions

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

(2) "Conditionally Exempt Generator" means a hazardous waste generator who generates in one calendar month less than, or equal to, 2.2 pounds of acute hazardous waste as defined in ORS 466.005 and OAR Chapter 340 Divisions 100 and 101, or who generates in one calendar month less than, or equal to, 220 pounds of hazardous waste or does not accumulate at any time greater than 2,200 pounds of hazardous waste as defined in ORS 466.005 and OAR Chapter 340 Divisions 100 and 101.

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

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

(5) "Facility" means all buildings, equipment, structures and other stationary items located on a single site or on contiguous or adjacent sites and owned or operated by the same person or by any person who controls, is controlled by or under common control with any person.

(6) "Fully Regulated Generator" means a hazardous waste generator who generates in any calendar month greater than 2.2 pounds of acute hazardous waste, or accumulate at any time greater than 2.2 pounds of acute hazardous waste, or who generates in any calendar month greater than or equal to 2,200 pounds of hazardous waste as defined by ORS 466.005 and OAR Chapter 340 Divisions 100 and 101.

(7) "Generator" means a person who, by virtue of ownership, management or control, is responsible for causing or allowing to be caused the creation of hazardous waste.

(8) "Hazardous Waste" has the meaning given that term in ORS 466.005 and OAR Chapter 340 Divisions 100 and 101.

(9) "Large User" means a facility required to report under Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (PL 99-499).

(10) "Person" means individual, the United States, the state or a public or private corporation, local government unit, public agency, partnership, association, firm, trust, estate or any other legal entity.

(11) "Public Record" has the meaning given to it in ORS 192.410.

(12) "Reclamation" means a material that is processed to recover a usable product, or a material that is regenerated. Examples are recovery of lead values from spent batteries and regeneration of spent solvents.

(13) "Recycled" means used, reused, or reclaimed, and has the same meaning given it in 40 CFR 261.2.

(14) "Small Quantity Generator" means a generator who generates in any calendar month greater than 220 pounds and less than 2,200 pounds of hazardous waste as defined by ORS 466.005 and OAR Chapter 340 Divisions 100 and 101.

(15) "Toxic Substance" or "toxics" means any substance in a gaseous, liquid or solid state listed pursuant to Title III Section 313 of the Superfund Amendments and Reauthorization Act of 1986, or any substance added by the Commission under the authority of ORS 465.009 and OAR 340-135-040. "Toxic Substance" does not include a substance when used as a pesticide or herbicide in routine commercial agricultural applications, or any substance deleted by the Commission under the authority of ORS 465.009 and OAR 340-135-040.

(16) "Toxics use" means use or production of a toxic substance.

(17) "Toxics Use Reduction" means in-plant changes in production or other processes or operations, products or raw materials that reduce, avoid or eliminate the use or production of toxic substances without creating substantial new risks to public health, safety and the environment. Reduction may be proportionate to increases or decreases in production or services

provided. Reduction means application of any of the following techniques:

(a) Input substitution, by replacing a toxic substance or raw material used in a production or other process or operation with a nontoxic or less toxic substance;

(b) Product reformulation, by substituting for an existing end product, an end product which is nontoxic or less toxic upon use, release or disposal;

(c) Production or other process or operation modernization, by upgrading or replacing existing equipment and methods with other equipment and methods;

(d) Production or other process or operation redesign or modifications;

(e) Improved operation and maintenance of production processes or equipment or methods, and modifications or additions to existing equipment or methods, including, techniques such as improved housekeeping practices, system adjustments, product and process inspections or production or process changes; or

(f) Recycling, reuse or extended use of toxics by using equipment or methods that become an integral part of the production or other process or operation of concern, including but not limited to filtration and other methods.

(18) "Toxics user" means a large user, a fully regulated or a small quantity generator.

(19) "Trade Secret" has the meaning given to it in ORS 192.501.

(20) "Treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to:

(1) neutralize such waste,

(2) recover energy or material resources from the waste,

(3) render such waste non-hazardous or less hazardous,

(4) make it safer for transport, storage, or disposal, or

(5) make it amenable for recovery, amenable for storage, or reduce its volume.

(21) "Used or reused" means a material that is:

(a) Employed as an ingredient (including use as an intermediate) in an industrial process to make a product (for example, distillation bottoms from one process used as a feedstock in another process). However, a material will not satisfy this condition if distinct components of the material are recovered as separate end products (as when metals are recovered from metal-containing secondary materials); or

(b) Employed in a particular function or application as an effective substitute for a commercial product (for example, spent pickle liquor used as phosphorous precipitant and sludge conditioner in wastewater treatment).

(22) "Waste Reduction" means any recycling or other activity applied after hazardous waste is generated that is consistent with the general goal of reducing present and future threats to public health, safety and the environment. Reduction may be proportionate to the increase or decrease in production or

services provided. The recycling or other activity shall result in:

(a) The reduction of total volume or quantity of hazardous waste generated that would otherwise be treated, stored or disposed; or

(b) The reduction of total volume or quantity and the reduction of toxicity of hazardous waste that does not: 1) transfer hazardous constituents from one environmental medium to another; 2) concentrate waste solely for the purposes of reducing volume; 3) use dilution as a means of reducing toxicity.

(c) On-site or off-site treatment may be included where it can be shown that such treatment confers a higher degree of protection of the public health, safety and the environment than other technically and economically practicable waste reduction alternatives.

(d) Where the generation of a hazardous waste does not result from the use of a toxic substance, waste reduction shall include methods that reduce, avoid, or eliminate the generation of that hazardous waste, such as those methods listed in OAR 340-135-020 (18)(a) through (e). These methods shall be given priority over recycling and other activities that apply to hazardous waste after it has been generated, where technically and economically feasible.

OAR 340-135-030 Applicability

(1) OAR 340-135-000 through OAR 340-135-110 apply to persons who are toxics users. A toxics user is a large user, a fully regulated generator, or a small quantity generator as defined in OAR 340-135-020.

(2) All large users, fully regulated generators, or small quantity generators are required to complete reduction plans under OAR 340-135-050.

(3) The following toxics users are required to set performance goals under OAR 340-135-070:

(a) All large users, fully regulated generators, or small quantity generators who use any toxic substance in quantities greater than 10,000 pounds in a calendar year.

(b) All large users, fully regulated generators, or small quantity generators who use any toxic substance in quantities greater than 1,000 pounds in a calendar year and that toxic substance equals greater than 10 percent of total toxics used in a calendar year.

(c) All fully regulated generators who generate a hazardous waste that represents 10 percent or more by weight of the cumulative hazardous wastes generated in a calendar year.

OAR 340-135-040 Identification and Listing of Toxic Substances and Hazardous Waste

(1) Toxic Substances

The chemicals and chemical categories listed in Appendix A of OAR Chapter 340, Division 135 are hereby incorporated in and made a part of this section and shall be considered to be toxic substances subject to the requirements of OAR 340-135-000 through OAR 340-135-110 and ORS 465.003 through ORS 465.037.

(2) Hazardous Waste

Hazardous waste as described in Appendix A of OAR Chapter 340, Division 135 are hereby incorporated and made a part of this section and are subject to the requirements of OAR 340-135-000 through OAR 340-135-110 and ORS 465.003 through ORS 465.037.

(3) Identification

(a) The Environmental Quality Commission may add to or delete from the lists of hazardous wastes and toxic substances identified in sections 1 and 2 of this rule and listed in Appendix A of OAR Chapter 340, Division 135 by applying the following criteria:

(A) Proportionate volume of toxic substance or hazardous waste unique to Oregon; or

(B) Amount of regional solid waste or hazardous waste off-site disposal or treatment capacity; or

(C) Impact on statewide or regional air quality, surface water quality, groundwater quality, or other environmental qualities; or

(D) A substance is added to or deleted from 40 CFR Part 372 Subpart D or a hazardous waste is added to or deleted from OAR 340-100-002 and OAR 340-101.

(b) Any additions or deletions to section 1 or 2 of this rule shall be made by rulemaking at least annually or as needed and shall be so identified in Appendix A of OAR Chapter 340, Division 135 as appropriate. Any additions or deletions are hereby incorporated in and made a part of this rule.

OAR 340-135-050 Reduction Plan Requirements and Certification

(1) Purpose

The purpose of a reduction plan is to reduce the use of toxics; to reduce the generation of hazardous waste; to encourage review of processes and procedures and a conscientious search for reduction methods to implement. A reduction plan shall not be considered public record except as provided under OAR 340-135-110(1).

(2) General Plan Requirements

(a) All large users and fully regulated generators shall complete a toxics use reduction and hazardous waste reduction plan on or before September 1, 1991. All small quantity generators shall complete a toxics use reduction and hazardous waste reduction plan on or before September 1, 1992.

(b) All persons who become toxics users after December 31, 1990 shall complete a toxics use reduction and hazardous waste reduction plan on or before September 1 of the year succeeding the calendar year in which they become a toxics user.

(c) A facility required to complete a reduction plan may include as a preface to the initial plan:

(A) An explanation and documentation regarding any toxics use reduction and hazardous waste reduction efforts completed or in progress prior to the year a plan is required to be completed.

(B) An explanation and documentation regarding impediments to toxics use reduction and hazardous waste reduction specific to the individual facility.

(d) The plan shall cover a minimum period of five (5) years and a maximum period of ten (10) years, with annual updates during the term of the plan. After the term of the plan, a person may choose to prepare a new plan or continue to conduct annual evaluations on reduction options.

(e) For the purposes of establishing performance goals and for the reduction plan in general, the baseline calendar year shall be the calendar year preceding the year the initial plan is required to be completed.

(f) The plan shall give priority to implementing toxics use reduction alternatives over hazardous waste reduction alternatives, where technically and economically feasible.

(g) The completed reduction plan shall be retained at the facility.

(3) Specific Plan Requirements

At a minimum, the Reduction Plan shall include the requirements described below:

(a) Policy Statement

The plan shall include a written policy articulating upper management and corporate support for the toxics use reduction and hazardous waste reduction plan and a commitment to implement plan goals.

(b) Scope and Objectives

The plan shall include, but is not limited to, an evaluation of technologies, procedures, and personnel training programs to insure unnecessary toxic substances are not used and unnecessary hazardous waste is not generated.

(c) Reduction Assessments

The plan shall include an internal analysis of toxic substance usage and hazardous waste generation, with periodic toxics use reduction and hazardous waste reduction assessments, to review individual processes or facilities and other activities where toxic substances are used and waste may be generated and identify opportunities to reduce or eliminate toxic substance usage and waste generation. In addition to this analysis the reduction assessment shall include:

(A) Evaluation of data on the types, amount and hazardous constituents of toxic substances used and waste streams generated.

(B) Evaluation of where and why those toxics are used and waste is generated within the production process or other operations.

(C) Identification and evaluation of potential toxics use reduction and hazardous waste reduction and recycling techniques applicable to those toxic substances and wastes that would provide a reduction program for overall toxics use and hazardous waste reduction, including those for which performance goals are required to be set and any others the toxics user may wish to add.

(d) Accounting System

To the extent technically and economically feasible, the plan shall identify the following toxics use and hazardous waste generation costs:

(A) Cost of toxic substances used.

(B) Cost of hazardous waste disposal.

(C) Cost of hazardous waste storage.

(D) Cost of hazardous waste treatment.

(E) Cost of environmental liability.

(F) Cost of compliance

These costs are to be incorporated into a toxics use and hazardous waste accounting system.

(e) Employee Awareness and Training Program

The plan shall include a description of an employee awareness and training program that involves employees in toxics use reduction and hazardous waste reduction planning and implementation to the maximum extent feasible.

(f) Institutionalization

The plan shall include a description of an ongoing effort that demonstrates the reduction plan is incorporated into management practices and procedures.

(g) Feasibility Analysis

The plan shall include the following:

(A) a description of reduction options considered.

(B) an explanation of why options considered were not implemented.

(C) a description of reduction options that distinguishes between toxics use reduction options and hazardous waste reduction options.

(D) an analysis of reduction options considered that demonstrates that toxics use reduction options were given priority wherever technically and economically practicable.

(E) identification of any positive or negative cross media effects on the environment, public health, or other reduction measures.

(F) Any other factors as needed.

(h) Plan Implementation

The plan shall include the following:

(A) A description of technically and economically practicable toxics use reduction and hazardous waste reduction options.

(B) A plan for implementation of reduction options that are selected for implementation, with a schedule of tasks and dates for implementation.

(C) Any other factors important for implementation.

(i) Performance Goals

The plan shall include the information required under OAR 340-135-070 on performance goals.

As part of each reduction plan, a toxics user shall establish specific performance goals for the reduction of toxic substances and the reduction of hazardous waste according to the criteria described in OAR 340-135-070.

(4) Notice of Plan Completion

Upon completion of a reduction plan, each toxics user shall notify the Department of Environmental Quality in writing. The purpose of the notice is to certify that the toxics user has completed a plan according to the requirements of OAR 340-135-050 and that the plan is available for inspection by the Department.

(a) The notice shall be made on a form provided by the Department and shall contain the following information:

(A) Signature of senior manager or business owner.

(B) Standard Industrial Classification (SIC) Code.

(C) Name, physical location and mailing address of toxics user.

(D) EPA hazardous waste identification number, if applicable.

(E) EPA toxic release inventory (TRI) identification number, if applicable.

(F) Time period covered by the plan.

(b) The notice may include an optional description of toxics use reduction and hazardous waste reduction achieved prior to the calendar year a plan is completed. This information may be submitted to the Department of Environmental Quality as a separate document and shall not be considered public record.

(c) Procedures for Submittal

All toxics users shall submit the completed and signed notice of plan completion to the Department of Environmental Quality. Notices shall be submitted on a form provided by the Department.

(A) Large toxics users and fully regulated generators in calendar year 1990, shall submit a notice of plan completion on or before September 1, 1991.

(B) Small quantity generators in calendar year 1991 shall submit a notice of plan completion on or before September 1, 1992.

(C) Any person who becomes a toxics user in any calendar year shall submit a notice of plan completion on or before September 1 of the succeeding calendar year.

OAR 340-135-060 Performance Goals

(1) General Requirements

(a) As a part of each reduction plan developed, a toxics user shall establish specific performance goals for the reduction of toxics use and reduction of hazardous waste in the following categories:

(A) Any toxic substance used in quantities in excess of 10,000 pounds in a calendar year.

(B) Any toxic substance used in quantities in excess of 1,000 pounds in a calendar year that constitutes 10 percent or more of the total toxic substances used in that calendar year.

(C) For fully regulated generators, any hazardous waste representing 10 percent or more by weight of the cumulative hazardous wastes generated in a calendar year.

(b) Performance goals for reduction of other toxics use and hazardous waste generation categories may also be established.

(2) Specific Requirements

Each performance goal shall be expressed in numeric terms. The numeric terms shall be stated in percent reduction of pounds for at least a two-year and five-year period, and an optional ten-year period if applicable to the reduction plan.

Each toxics user shall explain the rationale for each performance goal. The rationale for a particular performance goal shall address any impediments to toxics use reduction and hazardous waste reduction, including but not limited to the following:

(a) The availability of technically practicable toxics use reduction and hazardous waste reduction methods, including any anticipated changes in the future.

(b) The economic practicability of available toxics use reduction and hazardous waste reduction methods, including any anticipated changes in the future. Examples of situations where toxics use reduction or hazardous waste reduction may not be economically practicable include but are not limited to:

(A) For reasons of prioritization, a particular company has chosen to first address other more serious toxics use reduction or hazardous waste reduction concerns; or

(B) Necessary steps to reduce toxics use and hazardous waste are likely to have significant adverse impacts on product quality; or

(C) Legal or contractual obligations interfere with the necessary steps that would lead to toxics use reduction or hazardous waste reduction, (e.g., existing contracts that require certain chemical usage).

(c) Cross media impacts that result in more severe environmental or human exposure to toxic substances.

(3) Exceptions

If the establishment of a specific numeric performance goal is not technically and economically practicable, the performance goal shall include a clearly stated list of objectives designed to lead to the establishment of a numeric goal as soon as practicable, and may identify a date by which the numeric goal shall be established.

OAR 340-135-070 Annual Progress Report Requirements

(1) All toxics users required to complete a reduction plan under OAR 340-135-030 and OAR 340-135-050 shall complete annual progress reports. Annual progress reports shall not be considered public record except as provided under section (3) of this rule and OAR 340-135-110(1). The annual progress reports shall be retained at the facility and shall meet the following requirements:

(a) General Requirements

(A) Large toxics users and fully regulated generators in calendar year 1990 shall complete the first annual progress report on or before September 1, 1992. Each subsequent annual progress report shall be completed on or before September 1 of each year.

(B) Small quantity generators in calendar year 1991 shall complete the first annual progress report on or before September 1, 1993. Each subsequent annual progress report shall be completed on or before September 1 of each year.

(C) Any person who becomes a toxics user after calendar year 1990 shall complete an annual progress report on or before September 1 of the year immediately following the year they are required to complete a reduction plan under OAR 340-135-050 and annually thereafter.

(D) If a toxics user no longer meets the definition of a toxics user under OAR 340-135-030 for one calendar year, the Department shall be notified of this change in status in lieu of the annual progress report normally submitted for the calendar year following the change in status. Annual progress reports are not required thereafter. If the person becomes a toxics user at any time thereafter the person is again subject to the requirements of OAR Chapter 340 Division 135.

(2) Specific Requirements

(a) Each annual progress report shall contain the following information.

(A) Analysis of progress made, if any, in toxics use reduction and hazardous waste reduction, related to each performance goal established under OAR 340-135-070.

(B) Any amendments to the toxics use reduction and hazardous waste reduction plan and an explanation of the need for the amendments, including any adjustment to performance goals.

(C) Annual quantities, in pounds, of toxics used related to the performance goals established under OAR 340-135-070.

(D) Annual quantities, in pounds, of hazardous waste generated related to the performance goals established under OAR 340-135-070.

(E) Narrative summary explaining the data in Section (2)(a)(C) and (D) of this rule.

(b) Each annual progress report may contain the following information.

(A) Narrative description about the goals and progress made in reducing the use of toxic substances and generation of hazardous waste.

(B) Narrative description of any impediments to reducing the use of toxic substances and generation of hazardous waste.

(C) Any other information the toxics user determines to be needed for the evaluation of the reduction plan and annual progress report.

(3) Reporting Requirements

(a) The following information from the Annual Progress Report shall be reported to the Department no later than September 1, of each calendar year succeeding the year a plan is completed. The information shall be reported on a form provided by the Department and shall be public record.

(A) Name, mailing address and physical location of toxics user.

(B) Standard Industrial Classification Code

(C) EPA identification number, if applicable.

(D) TRI identification number, if applicable.

(E) Chemical name, CAS number, and annual number of pounds used for each toxic substance for which a performance goal is required to be established under OAR 340-135-060(1)(a)(A) and (B).

(F) Name of hazardous waste, waste code, annual number of pounds generated for each hazardous waste for which a performance goal is required to be established under OAR 340-135-060(1)(a)(C).

(G) Narrative explaining the data in section (3)(a)(E) and (F) of this rule.

(b) Toxics users may also report a production index for the facility or for each toxic substance used and hazardous waste generated for which a performance goal is established under OAR 340-135-060.

OAR 340-135-080 Additional Reporting Requirements

(1) Purpose

The information in Section (2) of this rule is reported for administrative purposes to improve technical assistance and to evaluate the effectiveness of toxics use reduction and hazardous waste reduction measures as required by ORS 465.012. The information may be reported on a form provided by the Department no later than September 1 of each calendar year succeeding the year in which the reduction plan is completed. The information reported shall be considered public record. (The information may be used in an aggregated manner to show trends and to determine needs for technical assistance, as an example.)

(2) Information Reported

Each toxics user may report the following information to the Department in addition to the information reported under the requirements of OAR 340-135-060.

(a) Performance goal, and any adjustment to the performance goal, for each toxic substance for which a performance goal is established under OAR 340-135-070(1)(a)(A) and (B).

(b) Performance goal, and any adjustment to the performance goal, for each hazardous waste for which a performance goal is established under OAR 340-135-070(1)(a)(C).

(c) Reduction measures implemented for each toxic substance and each hazardous waste for which a performance goal is established under OAR 340-135-070(1)(a)(A),(B), and (C).

(d) Impediments to reduction for each toxics substance and each hazardous waste for which a performance goal is established under OAR 340-135-070(1)(a)(A),(B), and (C).

OAR 340-135-090 Information Access and Review Procedures

(1) Plans

(a) The complete reduction plan shall be maintained in a single location at each facility. The plan shall not be considered public record as defined in ORS 192.410. The complete plan shall be made available for review to any officer, employee or representative of the Department.

(b) The owner/operator of the facility shall make the complete plan available for review within five (5) working days of request by any officer, employee or representative of the Department.

(c) Any officer, employee or representative of the Department may make notes, compilations of data, or copies of the plan or portions thereof. Any information recorded or obtained from the plan shall not be considered public record as defined in ORS 192.410.

(d) Any officer, employee or representative of the Department may conduct a review to determine if the plan has been completed and if it is adequate. Determination of adequacy shall be based on the plan criteria as described in OAR 340-135-050(2) and (3).

(e) The Department may notify the toxics user in writing of any inadequacies, identifying the specific deficiencies; and may make technical assistance available to assist the toxics user in modifying the plan.

(f) The toxics user shall be given not less than 90 days to correct the deficiencies and submit a modified plan to the Department addressing the specific deficiencies or to prepare a plan if none has been completed. The plan, when submitted, shall not be considered public record under ORS 192.410.

(g) If the plan that is submitted is determined by the Department to be inadequate, the Department may take action as described in OAR 340-135-110.

(h) If no plan is completed or submitted under section (1)(e) of this rule, the Department may take action as described in OAR 340-135-110.

(2) Annual Progress Reports

(a) Each complete annual progress report shall be maintained in a single location at each facility. Except for the information required to be reported to the Department in OAR 340-135-070(3), the annual progress report shall not be considered public record under ORS 192.410. The complete annual progress report shall be made available for review to any officer, employee or representative of the Department.

(b) The owner/operator of the facility shall make the annual progress report available for review within five (5) working days of request by any officer, employee or representative of the Department.

(c) Any officer, employee or representative of the Department may make notes, compilations of data, or copies of the annual progress reports or portions thereof. Any information recorded or obtained from the annual progress reports shall not be considered public record as defined in ORS 192.410.

(d) Any officer, employee or representative of the Department may review an annual progress report to determine if the annual progress report is adequate. Determination of adequacy shall be based on the criteria described in OAR 340-135-070.

(e) The Department may notify the toxics user in writing of any inadequacies, identifying specific deficiencies; and may make technical assistance available to assist the toxics user in modifying the annual progress report.

(f) The toxics user shall be given not less than 90 days to correct the deficiencies or to prepare an annual progress report if none has been completed and submit an annual progress report to the Department addressing the specific deficiencies. The annual progress report, when submitted, shall not be considered public record under ORS 192.410.

(g) If the modified annual progress report as submitted is determined by the Department to be inadequate, the Department may take action as described in OAR 340-135-110.

(h) If no annual progress report is completed or submitted under section (2)(e) of this rule, the Department may take action as described in OAR 340-135-110.

(3) The Department shall maintain a log of the following information:

(a) Each plan reviewed;

(b) Each progress report reviewed;

(c) Each plan found deficient and a description of deficiencies and corrective actions taken;

(d) Each progress report found deficient and a description of deficiencies and corrective actions taken.

(4) Availability of Information

(a) Access to plans and progress reports submitted to the Department that are not public record shall be limited to employees and representatives of the Department involved in carrying out the responsibilities of the Toxics Use Reduction and Hazardous Waste Reduction Act under ORS 465.003 through ORS 465.037.

(b) Access to plans and progress reports submitted to the Department that are determined to be public record, excluding any trade secrets, shall be open to anyone desiring to access the information.

(c) The Department shall make the information described in section (3) of this rule available to the public at the Department's office.

OAR 340-135-100 Designation of Trade Secret Information

(1) The plan, the annual progress reports, and any other information required to be submitted to the Department may contain information that, even if the plan or the annual progress reports become public record, may be classified trade secret and exempt from public disclosure. Trade secret information must meet the following criteria.

(a) not the subject of a patent; and

(b) only known to a limited number of individuals within an organization; and

(c) used in a business which the organization conducts; and

(d) of potential or actual commercial value; and

(e) capable of providing the user with a business advantage over competitors not having the information.

(2) The following procedures shall be followed by the toxics user to designate information as trade secret.

(a) Each individual page of a plan or progress report that contains trade secret information must be clearly marked trade secret.

(b) Written substantiation describing what information is considered trade secret and why must accompany the document. The written substantiation shall address the following:

(A) Identify which portions of information are claimed trade secret.

(B) Identify how long confidential treatment is desired for this information.

(C) Identify any pertinent patent information.

(D) Describe to what extent the information has been disclosed to others, who knows about the information, and what measures have been taken to guard against undesired disclosure of the information to others.

(E) Describe the nature of the use of the information in business.

(F) Describe why the information is considered to be commercially valuable.

(G) Describe how the information provides a business advantage over competitors.

(H) If any of the information has been provided to other government agencies, identify which one(s).

(I) Include any other information that supports a claim of trade secret.

(3) Any such time as the Department may request submittal of a plan or annual progress report under OAR 340-135-090 or 340-135-110, the information required in section (2)(b) of this rule shall also be submitted by the toxics user. At the time of submittal of the plan or annual progress report, the toxics user shall submit two (2) copies of the document; one copy with the claimed trade secret information omitted and one copy with the information included.

(4) If no claim of confidentiality and no substantiation accompanies submittal of a plan or annual progress report, then the information may be considered public record as provided for in OAR 340-135-110.

(5) The Department shall designate a Document Control Officer for the purpose of receiving information claimed to be trade secret and for secure storage and management of trade secret information and any other information classed as non-public record.

(6) The Department shall review information claimed by the toxics user to be trade secret. If the Department concurs that the information meets the requirements of trade secret, the information will be maintained as trade secret. If the Department determines that the information does not meet the requirements for trade secret, then the Department shall request the Attorney General to review and make a final determination. If it is determined that the information is not trade secret, the Department shall notify the person submitting the information of the determination.

(7) Access to information submitted as trade secret and determined to be trade secret shall be limited to employees and representatives of the Department involved in carrying out the responsibilities of the Toxics Use Reduction and Hazardous Waste Reduction Act under ORS 465.003 through ORS 465.037.

OAR 340-135-110 Compliance and Enforcement Procedures

(1) Compliance Procedures

Procedures in this rule apply to toxics use reduction and hazardous waste reduction plans as described in OAR 340-135-050 and annual progress reports as described in OAR 340-135-070. The procedures in Section (1)(a) through (d) of this rule shall apply only after the procedures in OAR 340-135-090(1)(a) through (g) or (2)(a) through (g) have been followed.

(a) If a toxics user fails to comply with the notice of deficiency in the timeframe required the Department may:

(A) Issue a second notice of deficiency requiring compliance in not less than 90 days, or;

(B) Issue an administrative order requiring compliance in not less than 90 days.

(b) The administrative order issued under section (1)(a)(B) of this rule shall become final in 21 days if the toxics user fails to request a contested case hearing before the Commission.

(c) If a contested case hearing is requested, the hearing shall be conducted before the Commission as provided under ORS 183.415.

(d) If a toxics user fails to comply with the administrative order issued under section (1)(a)(B) of this rule the Department shall hold a public hearing on the reduction plan or annual progress report. The reduction plan or annual progress report shall become public record, exclusive of trade secret information; and

(e) If a toxics user fails to comply with the administrative order issued under section (1)(a)(B) of this rule, the Department may seek enforcement through judicial action for equitable relief.

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(2) Enforcement Restrictions

In accordance with ORS 465.012, on-site technical assistance provided for the development and implementation of a toxics use reduction and hazardous waste reduction plan shall not result in hazardous waste inspections or enforcement actions except under the following conditions:

(a) If, during on-site technical assistance, there is reasonable cause to believe there exists a clear and immediate danger to the public health and safety or to the environment the Department may initiate compliance and enforcement action immediately.

(b) For the purposes of initiating enforcement under section (2)(a) of this rule the term "clear" shall mean plain, evident, free from doubt; and the term "immediate danger" shall mean a situation where there is substantial likelihood that serious harm may be experienced within the time frame necessary for the department to pursue an enforcement action (e.g. observation of a leaking drum).

OAR 340-135 - APPENDIX A

LISTING OF TOXIC SUBSTANCES AND HAZARDOUS WASTES

The following list of toxic substances and hazardous wastes is subject to the requirements of OAR 340-135-000 through OAR 340-135-110 and ORS 465.003 through ORS 465.037.

1. Toxic Substances
   (a) Alphabetical List of Chemicals

CAS Number	Chemical Name	De Minimis Concentration (percent)
75-07-0	Acetaldehyde	0.1
60-35-5	Acetamide	0.1
67-64-1	Acetone	1.0
75-05-8	Acetonitrile	1.0
53-96-3	2-Acetylaminofluorene	0.1
107-02-8	Acrolein	1.0
79-06-1	Acrylamide	0.1
79-10-7	Acyrlic acid	1.0
107-13-1	Acrylonitrile	0.1
309-00-2	Aldrin [1,4:5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexochloro-1,4,4a,5,8,8a-hexahydro-(1.alpha.,4.alpha.,4a.beta., 5.alpha.,8.alpha.,8a.beta.)-]	1.0
107-18-6	Allyl Alcohol	1.0
107-05-1	Allyl chloride	1.0
7429-90-5	Aluminum (fume or dust)	1.0
1344-28-1	Aluminum oxide	1.0
117-79-3	2-Aminoanthraquinone	0.1
60-09-3	4-Aminoazobenzene	0.1
92-67-1	4-Aminobiphenyl	0.1
82-28-0	1-Amino-2-methylanthraquinone	0.1
7664-41-7	Ammonia	1.0
6484-52-2	Ammonium nitrate (solution)	1.0
7783-20-2	Ammonium sulfate (solution)	1.0
62-53-3	Aniline	1.0
90-04-0	o-Anisidine	0.1
104-94-9	p-Anisidine	1.0
134-29-2	o-Anisidine hydrochloride	0.1
120-12-7	Anthracene	1.0
7440-36-0	Antimony	1.0
7440-38-2	Arsenic	0.1
1332-21-4	Asbestos (friable)	0.1
7440-39-3	Barium	1.0
98-87-3	Benzal chloride	1.0
55-21-0	Benzamide	1.0
71-43-2	Benzene	0.1
92-87-5	Benzidine	0.1
98-07-7	Benzoic trichloride (Benzotrichloride)	0.1
98-88-4	Benzoyl chloride	1.0
94-36-0	Benzoyl peroxide	1.0

CAS Number	Chemical Name	De Minimis Concentration (percent)
100-44-7	Benzyl chloride	1.0
7440-41-7	Beryllium	0.1
92-52-4	Biphenyl	1.0
111-44-4	Bis(2-chloroethyl)ether	1.0
542-88-1	Bis(chloromethyl)ether	0.1
108-60-1	Bis(2-chloro-1-methylethyl)ether	1.0
103-23-1	Bis(2-ethylhexyl)adipate	1.0
75-25-2	Bromoform (Tribromomethane)	1.0
74-83-9	Bromomethane (Methyl bromide)	1.0
106-99-0	1,3-Butadiene	0.1
141-32-2	Butyl acrylate	1.0
71-36-3	n-Butyl alcohol	1.0
78-92-2	sec-Butyl alcohol	1.0
75-65-0	tert-Butyl alcohol	1.0
85-68-7	Butyl benzyl phthalate	1.0
106-88-7	1,2-Butylene oxide	1.0
123-72-8	Butyraldehyde	1.0
4680-78-8	C.I.Acid Green 3	1.0
569-64-2	C.I. Basic Green 4	1.0
989-38-8	C.I. Basic Red 1	0.1
1937-37-7	C.I.Direct Black 38	0.1
2602-46-2	C.I. Direct Blue 6	0.1
16071-86-6	C.I. Direct Brown 95	0.1
2832-40-8	C.I. Disperse Yellow 3	1.0
3761-53-3	C.I. Food Red 5	0.1
81-88-9	C.I. Food Red 15	0.1
3118-97-6	C.I. Solvent Orange 7	1.0
97-56-3	C.I. Solvent Yellow 3	0.1
842-07-9	C.I. Solvent Yellow 14	0.1
492-80-8	C.I. Sovent Yellow 34 (Auramine)	0.1
128-66-5	C.I. Vat Yellow 4	1.0
7440-43-9	Cadmium	0.1
156-62-7	Calcium cyanamide	1.0
133-06-2	Captan (1H-Isoindole-1,3(2H)-dione, 3a,4,7,7a-tetrahydro-2-[(trichloromethyl)thio]-]	1.0
63-25-2	Carbaryl [1-Naphthalenol, methylcarbamate]	1.0
75-15-0	Carbon disulfide	1.0
56-23-5	Carbon tetrachloride	0.1
463-58-1	Carbonyl sulfide	1.0
120-80-9	Catechol	1.0
133-90-4	Chloramben [Benzoic acid, 3-amino-2,5-dichloro-]	1.0
57-74-9	Chorodane [4,7-Methanoindan, 1,2,4,5,6,7,8,8-octachloro-2,3,3a,4,7,7a-hexahydro-]	1.0
7782-50-5	Chorine	1.0
10049-04--4	Chorine dioxide	1.0
79-11-8	Chloroacetic acid	1.0

CAS Number	Chemical Name	De Minimis Concentration (percent)
532-27-4	2-Choroacetophenone	1.0
108-90-7	Chlorobenzene	1.0
510-15-6	Chlorobenzilate [Benzeneacetic acid, 4-chloro-.alpha.-(4-chlorophenyl)-.alpha.-hydroxy-,ethyl ester]	
75-00-3	Chloroethane (Ethyl chloride)	1.0
67-66-3	Chloroform	0.1
74-87-3	Chloromethane (Methyl chloride)	1.0
107-30-2	Chloromethyl methyl ether	0.1
126-99-8	Chloroprene	1.0
1897-45-6	Chlorothalonil [1,3-Benzenedicarbonitrile, 2,4,5,6-tetrachloro-]	1.0
7440-47-3	Chromium	0.1
7440-48-4	Cobalt	1.0
8001-58-9	Creosote	0.1
7440-50-8	Copper	1.0
120-71-8	p-Cresidine	0.1
1319-77-3	Cresol (mixed isomers)	1.0
108-39-4	m-Cresol	1.0
95-48-7	o-Cresol	1.0
106-44-5	p-Cresol	1.0
98-82-8	Cumene	1.0
80-15-9	Cumene hydroperoxide	1.0
135-20-6	Cupferron [Benzeneamine, N-hydroxy-N-nitroso, ammonium salt]	0.1
110-82-7	Cyclohexane	1.0
94-75-7	2,4-D [Acetic acid, 2,4-dichloro-phenoxy)-]	1.0
1163-19-5	Decabromodiphenyl oxide	1.0
2303-16-4	Diallate [Carbamothioic acid,bis(1-methylethyl)-, S-(2,3-dichloro-2-propenyl) ester]	1.0
615-05-4	2,4-Diaminoanisole	0.1
39156-41-7	2,4-Diaminoanisole sulfate	0.1
101-80-4	4,4'-Diaminodiphenyl ether	0.1
25376-45-8	Diaminotoluene (mixed isomers)	0.1
95-80-7	2,4-Diaminotoluene	0.1
334-88-3	Diazomethane	1.0
132-64-9	Dibenzofuran	1.0
96-12-8	1,2-Dibromo-3-chloropropane (DBCP)	0.1
106-93-4	1,2-Dibromoethane (Ethylene dibromide)	0.1
84-74-2	Dibutyl phthalate	1.0
25321-22-6	Dichlorobenzene (mixed isomers)	0.1
95-50-1	1,2-Dichlorobenzene	1.0
541-73-1	1,3-Dichlorobenzene	1.0
106-46-7	1,4-Dichlorobenzene	0.1
91-94-1	3,3'-Dichlorobenzidine	0.1

CAS Number	Chemical Name	De Minimis Concentration (percent)
75-27-4	Dichlorobromomethane	1.0
107-06-2	1,2-Dichloroethane (Ethylene dichloride)	0.1
540-59-0	1,2-Dichloroethylene	1.0
75-09-2	Dichloromethane (Methylene chloride)	0.1
120-83-2	2,4-Dichlorophenol	1.0
78-87-5	1,2-Dichloropropane	1.0
78-88-6	2,3-Dichloropropene	1.0
542-75-6	1,3-Dichloropropylene	0.1
62-73-7	Dichlorvos [Phosphoric acid, 2 dichloroethenyl dimethyl ester]	
115-32-2	Dicofol [Benzenemethanol, 4-chloro-.alpha.-4-chlorophenyl)-.alpya.-(trichloromethyl)-]	1.0
1464-53-5	Diepoxybutane	0.1
111-42-2	Diethanolamine	1.0
117-81-7	Di-(2-ethylhexyl) phthalate (DEHP)	0.1
84-66-2	Diethyl phthalate	1.0
64-67-5	Diethyl sulfate	0.1
119-90-4	3,3'-Dimethoxybenzidine	0.1
60-11-7	4-Dimethylaminoazobenzene	0.1
119-93-7	3,3'-Dimethylbenzidine (o-Tolidine)	0.1
79-44-7	Dimethylcarbamyl chloride	0.1
57-14-7	1,1-Dimethyl hydrazine	0.1
105-67-9	2,4-Dimethylphenol	1.0
131-11-3	Dimethyl phthalate	1.0
77-78-1	Dimethyl sulfate	0.1
99-65-0	m-Dinitrobenzene	1.0
528-29-0	o-Dinitrobenzene	1.0
100-25-4	p-Dinitrobenzene	1.0
534-52-1	4,6--Dinitro-o-cresol	1.0
51-28-5	2,4-Dinitrophenol	1.0
121-14-2	2,4-Dinitrotoluene	1.0
606-20-2	2,6-Dinitrotoluene	1.0
25321-14-6	Dinitrotoluene (mixed isomers)	1.0
117-84-0	n-Dioctyl phthalate	1.0
123-91-1	1,4-Dioxane	0.1
122-66-7	1,2-Diphenylhydrazine (Hydrazobenzene)	0.1
106-89-8	Epichlorohydrin	0.1
110-80-5	2-Ethoxyethanol	1.0
140-88-5	Ethyl acrylate	0.1
100-41-4	Ethylbenzene	1.0
541-41-3	Ethyl chloroformate	1.0
74-85-1	Ethylene	1.0
107-21-1	Ethylene glycol	1.0
151-56-4	Ethyleneimine (Aziridine)	0.1

CAS Number	Chemical Name	De Minimis Concentration (percent)
75-21-8	Ethylene oxide	0.1
96-45-7	Ethylene thiourea	0.1
2164-17-2	Fluometuron [Urea, N,N-dimethyl-N'-[3-(trifluoromethyl)phenyl]-]	1.0
50-00-0	Formaldehyde	0.1
76-13-1	Freon 113 [Ethane 1,1,2-trichloro-1,2,2-trifluoro-]	1.0
76-44-8	Heptachlor [1,4,5,6,7,8,8-Heptachloro-3a,4,7,7a-tetrahydro-4,7-methano-1H-indene]	1.0
118-74-1	Hexachlorobenzene	0.1
87-68-3	Hexachloro-1,3-butadiene	1.0
77-47-4	Hexachlorocyclopentadiene	1.0
67-72-1	Hexachloroethane	1.0
1335-87-1	Hexachloronaphthalene	1.0
680-31-9	Hexamethylphosphoramide	0.1
302-01-2	Hydrazine	0.1
10034-93-2	Hydrazine sulfate	0.1
7647-01-0	Hydrochloric acid	1.0
74-90-8	Hydrogen cyanide	1.0
7664-39-3	Hydrogen fluoride	1.0
123-31-9	Hydroquinone	1.0
78-84-2	Isobutyraldehyde	1.0
67-63-0	Isopropyl alcohol (manufacturing-strong acid process, no supplier notification)	0.1
80-05-7	4,4'-Isopropylidenediphenol	1.0
120-58-1	Isosafrole	0.1
7439-92-1	Lead	0.1
58-89-9	Lindane [Cyclohexane 1,2,3,4,5,6-hexachloro-,(1.alpha.,2.alpha.,3.beta.,4.alpha.,5.alpha.,6.beta)-]	0.1
108-31-6	Maleic anhydride	1.0
12427-38-2	Maneb [Carbamodithioic acid, 1,2-ethanediylbis-, manganese complex]	1.0
7439-96-5	Manganese	1.0
7439-97-6	Mercury	1.0
67-56-1	Methanol	1.0
72-43-5	Methoxychlor [Benzene, 1,1'-(2,2,2-trichloroethylidene)bis[4-methoxy-]	1.0
109-86-4	2-Methoxyethanol	1.0
96-33-3	Methyl acrylate	1.0
1634-04-4	Methyl tert-butyl ether	1.0
101-14-4	4,4'-Methylenebis(2-chloro aniline) (MBOCA)	1.0
101-61-1	4,4'-Methylenebis (N,N-dimethyl) benzenamine	0.1

CAS Number	Chemical Name	De Minimis Concentration (percent)
101-68-8	Methylenebis(phenylisocyanate) (MBI)	1.0
74-95-3	Methylene bromide	1.0
101-77-9	4,4'-Methylenedianiline	0.1
78-93-3	Methyl ethyl ketone	1.0
60-34-4	Methyl hydrazine	1.0
74-88-4	Methyl iodide	0.1
108-10-1	Methyl isobutyl ketone	1.0
624-83-9	Methyl isocyanate	1.0
80-62-6	Methyl methacrylate	1.0
90-94-8	Michler's ketone	0.1
1313-27-5	Molybdenum trioxide	1.0
505-60-2	Mustard gas [Ethane, 1,1'-thiobis [2-chloro-]	0.1
91-20-3	Naphthalene	1.0
134-32-7	alpha-Naphthylamine	0.1
92-59-8	beta-Naphthylamine	0.1
7440-02-0	Nickel	0.1
7697-37-2	Nitric acid	1.0
139-13-9	Nitrilotriacetic acid	0.1
99-59-2	5-Nitro-o-anisidine	0.1
98-95-3	Nitrobenzene	1.0
92-93-3	4-Nitrobiphenyl	0.1
1836-75-5	Nitrofen [Benzene, 2,4-dichloro-1-(4-nitrophenoxy)-]	0.1
51-75-2	Nitrogen mustard [2-Chloro-N-(2-chloroethyl)-N-methylethanamine]	0.1
55-63-0	Nitroglycerin	1.0
88-75-5	2-Nitrophenol	1.0
100-02-7	4-Nitrophenol	1.0
79-46-9	2-Nitropropane	0.1
156-10-5	p-Nitrosodiphenylamine	0.1
121-69-7	N,N-Dimethylaniline	1.0
924-16-3	N-Nitrosodi-n-butylamine	0.1
55-18-5	N-Nitrosodiethylamine	0.1
62-75-9	N-Nitrosodimethylamine	0.1
86-30-6	N-Nitrosodiphenylamine	1.0
621-64-7	N-Nitrosodi-n-propylamine	0.1
4549-40-0	N-Nitrosomethylvinylamine	0.1
59-89-2	N-Nitrosomorpholine	0.1
759-73-9	N-Nitroso-N-ethylurea	0.1
684-93-5	N-Nitroso-N-methylurea	0.1
16543-55-8	N-Nitrosonornicotine	0.1
100-75-4	N-Nitrosopiperidine	0.1
2234-13-1	Octachloronaphthalene	1.0
20816-12-0	Osmium tetroxide	1.0
56-38-2	Parathion [Phosphorothioic acid, o,o-diethyl-o-(4-nitrophenyl) ester]	1.0
87-86-5	Pentachlorophenol (PCP)	1.0

CAS Number	Chemical Name	De Minimis Concentration (percent)
79-21-0	Peracetic acid	1.0
108-95-2	Phenol	1.0
106-50-3	p-Phenylenediamine	1.0
90-43-7	2-Phenylphenol	1.0
75-44-5	Phosgene	1.0
7664-38-2	Phosphoric acid	1.0
7723-14-0	Phosphorus (yellow or white)	1.0
85-44-9	Phthalic anhydride	1.0
88-89-1	Picric acid	1.0
1336-36-3	Polychlorinated biphenyls (PCBs)	0.1
1120-71-4	Propane sultone	0.1
57-57-8	beta-Propiolactone	0.1
123-38-6	Propionaldehyde	1.0
114-26-1	Propoxur [Phenol, 2-(1-methylethoxy)-, methylcarbamate]	1.0
115-07-1	Propylene (Propene)	1.0
75-55-8	Propyleneimine	0.1
75-56-9	Propylene oxide	0.1
110-86-1	Pyridine	1.0
91-22-5	Quinoline	1.0
106-51-4	Quinone	1.0
82-68-8	Quintozene (Pentachloronitrobenzene]	1.0
81-07-2	Saccharin (manufacturing, no supplier notification [1,2-Benzisothiazol -3(2H)-one,1,1-dioxide]	0.1
94-95-7	Safrole	0.1
7782-49-2	Selenium	1.0
7440-22-4	Silver	1.0
1310-73-2	Sodium hydroxide (solution)	1.0
100-42-5	Styrene	0.1
96-09-3	Styrene oxide	0.1
7664-93-9	Sulfuric acid	1.0
100-21-0	Terephthalic acid	1.0
79-34-5	1,1,2,2-Tetrachloroethane	0.1
127-18-4	Tetrachloroethylene (Perchloroethylene)	0.1
961-11-5	Tetrachlorvinphos [Phosphoric acid, 2-chloro-1-(2,3,5-trichlorophenyl) ethenyl dimethyl ester]	1.0
961-11-5	Tetrachlorvinphos [Phosphoric acid, 2-chloro-1-(2,3,5-trichlorophenyl) ethenyl dimethyl ester]	1.0
7440-28-0	Thallium	1.0
62-55-5	Thioacetamide	0.1
139-65-1	4,4'-Thiodianiline	0.1
62-56-6	Thiourea	0.1
7550-45-0	Titanium tetrachloride	1.0

CAS Number	Chemical Name	De Minimis Concentration (percent)
1314-20-1	Thorium dioxide	1.0
108-88-3	Toluene	1.0
584-84-9	Toluene-2,4-diisocyanate	0.1
91-08-7	Toluene-2,6-diisocyanate	0.1
26471-62-5	Toluenediisocyanate (mixed isomers)	1.0
95-53-4	o-Toluidine	0.1
636-21-5	o-Toluidine hydrochloride	0.1
8001-35-2	Toxaphene	0.1
68-76-8	Triaziquone [2,5-Cyclohexadiene -1,4-dione, 2,3,5-tris(1-aziridinyl)-]	0.1
52-68-6	Trichlorfon (Phosphonic acid, (2,2,2- trichloro-1-hydroxyethyl)-,dimethyl ester]	1.0
120-82-1	1,2,4-Trichlorobenzene	1.0
71-55-6	1,1,1-Trichloroethane (Methyl chloroform)	1.0
79-00-5	1,1,2-Trichloroethane	1.0
79-01-6	Trichloroethylene	1.0
95-95-4	2,4,5-Trichlorophenol	1.0
88-06-2	2,4,6-Trichlorophenol	0.1
1582-09-8	Trifluralin (Benzeneamine, 2,6- dinitro-N,N-dipropyl-4-(trifluoromethyl)-]	1.0
95-63-6	1,2,4-Trimethylbenzene	1.0
126-72-7	Tris(2,3-dibromopropyl) phosphate	0.1
51-79-6	Urethane (Ethyl carbamate)	0.1
7440-62-2	Vanadium (fume or dust)	1.0
108-05-4	Vinyl acetate	1.0
593-60-2	Vinyl bromide	0.1
75-01-4	Vinyl chloride	0.1
75-35-4	Vinylidene chloride	1.0
1330-20-7	Xylene (mixed isomers)	1.0
108-38-3	m-Xylene	1.0
95-47-6	o-Xylene	1.0
106-42-3	p-Xylene	1.0
87-62-7	2,6-Xylidine	1.0
7440-66-6	Zinc (fume or dust)	1.0
12122-67-7	Zineb [Carbamodithioic acid, 1,2- ethanediylbis-, zinc complex]	1.0

(b) List of Chemical Categories

The metal compounds listed below, unless otherwise specified, are defined as including any unique chemical substance that contains the named metal (i.e., antimony, copper, etc.) as part of that chemical's structure.

Chemical categories are subject to the 1 percent de minimis concentration unless the substance involved meets the definition of a federal Occupational Safety and Health Act carcinogen.

- o Antimony Compounds
- o Arsenic Compounds
- o Barium Compounds
- o Beryllium Compounds
- o Cadmium Compounds
- o Chlorophenols
- o Chromium Compounds
- o Cobalt Compounds
- o Copper Compounds
- o Cyanide Compounds - X^+CN^- where $X = H^+$ or any other group where a formal dissociation may occur. For example KCN or $Ca(CN)_2$
- o Glycol Ethers - includes mono- and di-ethers of ethylene glycol, diethylene glycol, and triethylene glycol. Polymers are excluded from the glycol ether category.
- o Lead Compounds
- o Manganese Compounds
- o Mercury Compounds
- o Nickel Compounds
- o Polybrominated Biphenyls (PBBs)
- o Selenium Compounds
- o Silver Compounds
- o Thallium Compounds
- o Zinc Compounds

2. Hazardous Waste

[Comment: The "Hazard Code" shown below indicates the basis used by the U.S. Environmental Protection Agency for listing the classes or types of wastes. The codes have the following meaning: I - ignitable; C - corrosive; R - reactive; E - EP toxic; H - acute hazardous waste; T - toxic.]

(a) Any characteristic hazardous waste meeting the criteria in 40 CFR Part 261 Subpart C adopted as of December 31, 1988.

(b) Hazardous Waste from non-specific sources.

Industry and EPA hazardous waste No.	Hazardous Waste	Hazard Code
Generic:		
F001	The following spent halogenated solvents used in degreasing: Tetrachloroethylene, trichloroethylene, methylene chloride, 1,1,1-trichloroethane, carbon tetrachloride, and chlorinated fluorocarbons; all spent solvent mixtures/blends used in degreasing containing, before use, a total of ten percent or more (by volume) of one or more of the above halogenated solvents or those solvents listed in F002, F004, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.	(T)
F002	The following spent halogenated solvents: Tetrachloroethylene, methylene chloride, trichloroethylene, 1,1,1-trichloroethane, chlorobenzene, 1,1,2-trichloro-1,2,2-trifluoroethane, ortho-dichlorobenzene, trichlorofluoromethane, and 1,1,2-trichloroethane; all spent solvent mixtures/blends containing, before use, a total of ten percent or more (by volume) of one or more of the above halogenated solvents or those listed in F001, F004, or F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.	(T)
F003	The following spent non-halogenated solvents: Xylene, acetone, ethyl acetate, ethyl benzene, ethyl ether, methyl isobutyl ketone, n-butyl alcohol, cyclohexanone, and methanol; all spent solvent mixtures/blends containing, before use, only the above spent non-halogenated solvents; and all spent solvent mixtures/blends containing, before use, one or more of the above non-halogenated solvents, and, a total of ten percent or more (by volume) of one or more of those solvents listed in F001, F002, F004, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.	(I)

*(I,T) Specifies mixtures containing ignitable and toxic constituents.

Industry and EPA hazardous waste No.	Hazardous Waste	Hazard Code
F004	The following spent non-halogenated solvents: Cresols and cresylic acid, and nitrobenzene; all spent solvent mixtures/blends containing, before use, a total of ten percent or more (by volume) of one or more of the above non-halogenated solvents or those solvents listed in F001, F002, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.	(T)
F005	The following spent non-halogenated solvents: Toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, benzene, 2-ethoxyethanol, and 2-nitropropane; all spent solvent mixtures/blends containing, before use, a total of ten percent or more (by volume) of one or more of the above non-halogenated solvents or those solvents listed in F001, F002, or F004; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.	(I,T)
F006	Wastewater treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum.	(T)
F019	Wastewater treatment sludges from the chemical conversion coating of aluminum.	(T)
F007	Spent cyanide plating bath solutions from electroplating operations.	(R,T)
F008	Plating bath residues from the bottom of plating baths from electroplating operations where cyanides are used in the process.	(R,T)
F009	Spent stripping and cleaning bath solutions from electroplating operations where cyanides are used in the process.	(R,T)

Industry and EPA hazardous waste No.	Hazardous Waste	Hazard Code
F010	Quenching bath residues from oil baths from metal heat treating operations where cyanides are used in the process.	(R,T)
F011	Spent cyanide solutions from salt bath pot cleaning from metal heat treating operations.	(R,T)
F012	Quenching waste water treatment sludges from metal heat treating operations where cyanides are used in the process.	(T)
F024	Wastes, including but not limited to, distillation residues, heavy ends, tars, and reactor clean-out wastes from the production of chlorinated aliphatic hydrocarbons, having carbon content from one to five, utilizing free radical catalyzed processes. [This listing does not include light ends, spent filters and filter aids, spent dessicants, wastewater, wastewater treatment sludges, spent catalysts, and wastes listed in Section 261.32.].	(T)
F020	Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tri- or tetrachlorophenol, or of intermediates used to produce their pesticide derivatives. (This listing does not include wastes from the production of Hexachlorophene from highly purified 2,4,5-trichlorophenol.).	(H)
F021	Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of pentachlorophenol, or of intermediates used to produce its derivatives.	(H)

Industry and EPA hazardous waste No.	Hazardous Waste	Hazard Code
F022	Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tetra-, penta-, or hexachlorobenzenes under alkaline conditions.	(H)
F023	Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production of materials on equipment previously used for the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tri- and tetrachlorophenols. (This listing does not include wastes from equipment used only for the production or use of Hexachlorophene from highly purified 2,4,5-trichlorophenol.).	(H)
F026	Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production of materials on equipment previously used for the manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tetra-, penta-, or hexachlorobenzene under alkaline conditions.	(H)
F027	Discarded unused formulations containing tri-, tetra-, or pentachlorophenol or discarded unused formulations containing compounds derived from these chlorophenols. (This listing does not include fomulations containing Hexachlorophene synthesized from prepurified 2,4,5-trichlorophenol as the sole component.).	(H)
F028	Residues resulting from the incineration or thermal treatment of soil contaminated with EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, and F027.	(T)

(c) Hazardous wastes from specific sources.

Industry and EPA hazardous waste No.	Hazardous Waste	Hazard Code
Wood preservation:		
K001	Bottom sediment sludge from the treatment of wastewaters from wood preserving processes that use creosote and/or pentachlorophenol.	(T)
Inorganic pigments:		
K002	Wastewater treatment sludge from the production of chrome yellow and orange pigments	(T)
K003	Wastewater treatment sludge from the production of molybdate orange pigments	(T)
K004	Wastewater treatment sludge from the production of zinc yellow pigments	(T)
K005	Wastewater treatment sludge from the production of chrome green pigments	(T)
K006	Wastewater treatment sludge from the production of chrome oxide green pigments (anhydrous and hydrated)	(T)
K007	Wastewater treatment sludge from the production of iron blue pigments	(T)
K008	Oven residue from the production of chrome oxide green pigments	(T)
Organic chemicals:		
K009	Distillation bottoms from the production of acetaldehyde from ethylene	(T)
K010	Distillation side cuts from the production of acetaldehyde from ethylene	(T)
K011	Bottom stream from the wastewater stripper in the production of acrylonitrile	(R,T)
K013	Bottom stream from the acetonitrile column in the production of acrylonitrile	(R,T)

Industry and EPA hazardous waste No.	Hazardous Waste	Hazard Code
Organic chemicals:		
K014	Bottoms from the acetonitrile purification column in the production of acrylonitrile	(T)
K015	Still bottoms from the distillation of benzyl chloride	(T)
K016	Heavy ends or distillation residues from the production of carbon tetrachloride	(T)
K017	Heavy ends (still bottoms) from the purification column in the production of epichlorohydrin	(T)
K018	Heavy ends from the fractionation column in ethyl chloride production	(T)
K019	Heavy ends from the distillation of ethylene dichloride in ethylene dichloride production	(T)
K020	Heavy ends from the distillation of vinyl chloride in vinyl chloride monomer production	(T)
K021	Aqueous spent antimony catalyst waste from fluoromethanes production	(T)
K022	Distillation bottom tars from the production of phenol/acetone from cumene	(T)
K023	Distillation light ends from the production of phthalic anhydride from naphthalene	(T)
K024	Distillation bottoms from the production of phthalic anhydride from naphthalene	(T)
K093	Distillation light ends from the production of phthalic anhydride from ortho-xylene	(T)
K094	Distillation bottoms from the production of phthalic anhydride from ortho-xylene	(T)
K025	Distillation bottoms from the production of nitrobenzene by the nitration of benzene	(T)

Industry and EPA hazardous waste No.	Hazardous Waste	Hazard Code
Organic chemicals:		
K026	Stripping still tails from the production of methy ethyl pyridines	(T)
K027	Centrifuge and distillation residues from toluene diisocyanate production	(R,T)
K028	Spent catalyst from the hydrochlorinator reactor in the production of 1,1,1-trichloroethane	(T)
K029	Waste from the product steam stripper in the production of 1,1,1-trichloroethane	(T)
K095	Distillation bottoms from the production of 1,1,1-trichloroethane	(T)
K096	Heavy ends from the heavy ends column from the production of 1,1,1-trichloroethane	(T)
K030	Column bottoms or heavy ends from the combined production of trichloroethylene and perchloroethylene	(T)
K083	Distillation bottoms from aniline production	(T)
K103	Process residues from aniline extraction from the production of aniline	(T)
K104	Combined wastewater streams generated from nitrobenzene/aniline production	(T)
K085	Distillation or fractionation column bottoms from the production of chlorobenzenes	(T)
K105	Separated aqueous stream from the reactor product washing step in the production of chlorobenzenes	(T)
K111	Product washwaters from the production of dinitrotoluene via nitration of toluene	(C,T)
K112	Reaction by-product water from the drying column in the production of toluenediamine via hydrogenation of dinitrotoluene	(T)

Industry and EPA hazardous waste No.	Hazardous Waste	Hazard Code
Organic chemicals:		
K113	Condensed liquid light ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene	(T)
K114	Vicinals from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene	(T)
K115	Heavy ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene	(T)
K116	Organic condensate from the solvent recovery column in the production of toluene diisocyanate via phosgenation of toluenediamine	(T)
K117	Wastewater from the reactor vent gas scrubber in the production of ethylene dibromide via bromination of ethene	(T)
K118	Spent adsorbent solids from purification of ethylene dibromide in the production of ethylene dibromide via bromination of ethene	(T)
K136	Still bottoms from the purification of ethylene dibromide in the production of ethylene dibromide via bromination of ethene	(T)
K071	Brine purification muds from the mercury cell process in chlorine production, where separately prepurified brine is not used	(T)
K073	Chlorinated hydrocarbon waste from the purification step of the diaphragm cell process using graphite anodes in chlorine production	(T)
K106	Wastewater treatment sludge from the mercury cell process in chlorine production	(T)

Industry and EPA hazardous waste No.	Hazardous Waste	Hazard Code
Pesticides:		
K031	By-product salts generated in the production of MSMA and cacodylic acid	(T)
K032	Wastewater treatment sludge from the production of chlordane	(T)
K033	Wastewater and scrub water from the chlorination of cyclopentadiene in the production of chlordane	(T)
K034	Filter solids from the filtration of hexachlorocyclopentadiene in the production of chlordane	(T)
K097	Vacuum stripper discharge from the chlordane chlorinator in the production of chlordane	(T)
K035	Wastewater treatment sludges generated in the production of creosote	(T)
K036	Still bottoms from toluene reclamation distillation in the production of disulfoton	(T)
K037	Wastewater treatment sludges from the production of disulfoton	(T)
K038	Wastewater from the washing and stripping of phorate production	(T)
K039	Filter cake from the filtration of diethylphosphorodithioic acid in the production of phorate	(T)
K040	Wastewater treatment sludge from the production of phorate	(T)
K041	Wastewater treatment sludge from the production of toxaphene	(T)
K098	Untreated process wastewater from the production of toxaphene	(T)

Industry and EPA hazardous waste No.	Hazardous Waste	Hazard Code
K042	Heavy ends or distillation residues from the distillation of tetrachlorobenzene in the production of 2,4,5-T	(T)
K043	2,6-Dichlorophenol waste from the production of 2,4-D	(T)
K099	Untreated wastewater from the production of 2,4-D	(T)
K123	Process wastewater (including supernates, filtrates, and washwaters) from the production of ethylenebisdithiocarbamic acid and its salt	(T)
K124	Reactor vent scrubber water from the production of ethylenebisdithiocarbamic acid and its salts	(C,T)
K125	Filtration, evaporation, and centrifugation solids from the production of ethylenebisdithiocarbamic acid and its salts	(T)
K-126	Baghouse dust and floor sweepings in milling and packaging operations from the production or formulation of ethylenebisdithiocarbamic acid and its salts	(T)
Explosives:		
K044	Wastewater treatment sludges from the manufacturing and processing of explosives	(R)
	Spent carbon from the treatment of wastewater containing explosives	(R)
K046	Wastewater treatment sludges from the manufacturing, formuuation and loading of lead-based initiating compounds	(T)
K047	Pink/red water from TNT operations	(R)
Petroleum refining:		
K048	Dissolved air flotation (DAF) float from the petroleum refining industry	(T)

Industry and EPA hazardous waste No.	Hazardous Waste	Hazard Code
Petroleum refining:		
K049	Slop oil emulsion solids from the petroleum refining industry	(T)
K050	Heat exchanger bundle cleaning sludge from the petroleum refining industry	(T)
K051	API separator sludge from the petroleum refining industry	(T)
K052	Tank bottoms (leaded) from the petroleum refining industry	(T)
Iron and steel:		
K061	Emission control dust/sludge from the primary production of steel in electric furnaces	(T)
K062	Spent pickle liquor generated by steel finishing operations of facilities within the iron and steel industry (SIC Codes 331 and 332).	(C,T)
Primary copper:		
K064	Acid plant blowdown slurry/sludge resulting from the thickening of blowdown slurry from primary copper production.	(T)
Primary lead:		
K065	Surface impoundment solids contained in and dredged from surface impoundments at primary lead smelting facilities	(T)
Primary Zinc:		
K006	Sludge from treatment of process wastewater and/or acid plant blowdown from primary zinc production	(T)
Primary aluminum:		
K088	Spent potliners from primary aluminum reduction	(T)
Ferroalloys:		
K090	Emission control dust or sludge from ferrochromiumsilicon production	(T)

Industry and EPA hazardous waste No.	Hazardous Waste	Hazard Code
Ferroalloys:		
K091	Emission control dust or sludge from ferrochromium production	(T)
K100	Waste leaching solution from acid leaching of emission control dust/sludge from secondary lead smelting	(T)
Secondary lead:		
K069	Emission control dust/sludge from secondary lead smelting	(T)
Veterinary pharmaceuticals:		
K084	Wastewater treatment sludges generated during the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds	(T)
K101	Distillation tar residues from the distillation of aniline-based compounds in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds	(T)
K102	Residue from the use or activated carbon for decolorization in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds	(T)
Ink formulation:		
K086	Solvent washes and sludges, caustic washes and sludges, or water washes and sludges from cleaning tubs and equipment used in the formulation of ink from pigments, driers, soaps, and stabilizers containing chromium and lead	(T)
Coking:		
K060	Ammonia still lime sludge from coking operations	(T)
Coking:		
K087	Decanter tank tar sludge from coking operations	(T)

(d) Discarded commercial chemical products, off-specification species, container residues, and spill residues thereof, except those wastes that become subject to regulation solely as a result of remedial activities taken in response to environmental contamination.

The following materials or items are hazardous wastes if and when they are discarded or intended to be discarded as described in 40 CFR 261.2(a)(2)i), when they are mixed with waste oil or used oil or other material and applied to the land for dust suppression or road treatment, when they are otherwise applied to the land in lieu of their original intended use or when they are contained in products that are applied to the land in lieu of their original intended use, or when, in lieu of their original intended use, they are produced for use as (or as a component of) a fuel, distributed for use as a fuel, or burned as a fuel.

(A) Any commercial chemical product, or manufacturing chemical intermediate having the generic name listed in paragraph (E) or (F) of this section.

(B) Any off-specification commercial chemical product or manufacturing chemical intermediate which, if it met specifications, would have the generic name listed in paragraph (E) or (F) of this section.

(C) Any residue remaining in a container or in an inner liner removed from a container that has held any commercial chemical product or manufacturing chemical intermediate having the generic name listed in paragraph (E) of this section, unless the container is empty as defined in 40 CFR 261.7(b)(3).

[**Comment:** Unless the residue is being beneficially used or reused, or legitimately recycled or reclaimed; or being accumulated, stored, transported or treated prior to such use, re-use, recycling or reclamation, EPA considers the residue to be intended for discard, and thus, a hazardous waste. An example of a legitimate re-use of the residue would be where the residue remains in the container and the container is used to hold the same commercial chemical product or manufacturing chemical intermediate it previously held. An example of the discard of the residue would be where the drum is sent to a drum reconditioner who reconditions the drum but discards the residue.]

(D) Any residue or contaminated soil, water or other debris resulting from the cleanup of a spill into or on any land or water of any commercial chemical product or manufacturing chemical intermediate having the generic name listed in paragraph (E) or (F) of this section, or any residue or contaminated soil, water or other debris resulting from the cleanup of a spill, into or on any land or water, of any off-specification chemical product and manufacturing chemical intermediate which, if it met specifications, would have the generic name listed in paragraph (E) or (F) of this section.

[**Comment:** The phrase "commercial chemical product or manufacturing chemical intermediate having the generic name listed in ..." refers to a chemical substance which is manufactured or formulated for commercial or manufacturing use which consists of the commercially pure grade of the chemical, any technical grades of the chemical that are produced or marketed, and all formulations in which the chemical is the sole active ingredient. It does not refer to a material, such as a manufacturing process waste, that contains any of the substances listed in paragraph (E) or (F). Where a manufacturing process waste is deemed to be a hazardous waste because it contains a substance listed in paragraph (E) or (F), such waste will be listed in either 40 CFR 261.31 or 40 CFR 261.32 or will be identified as a hazardous waste by the characteristics set forth in OAR 340-135-040(2)(a).

(E) The commercial chemical products, manufacturing chemical intermediates or off-specification commercial chemical products or manufacturing chemical intermediates referred to in paragraphs (A) through (D) of this section, are identified as acute hazardous wastes (H) and are subject to the small quantity exclusion defined in 40 CFR 261.5(e). These wastes and their corresponding EPA Hazardous Waste Codes are:

Hazardous Waste No.	Chemical Abstracts No.	Substance
P023	107-20-0	Acetaldehyde, chloro-
P002	591-08-2	Acetamide, N-(aminothioxomethyl)-
P057	640-19-7	Acetamide, 2-fluoro-
P058	62-74-8	Acetic acid, fluoro-, sodium salt
P002	591-08-2	1-Acetyl-2-thiourea

Hazardous Waste No.	Chemical Abstracts No.	Substance
P003	107-02-8	Acrolein
P070	116-06-3	Aldicarb
P004	309-00-2	Aldrin
P005	107-18-6	Allyl alcohol
P006	20859-73-8	Aluminum phosphide (R,T)
P007	2763-96-4	5-(Aminomethyl)-3-isoxazolol
P008	504-24-5	4-Aminopyridine
P009	131-74-8	Ammonium picrate (R)
P119	7803-55-6	Ammonium vanadate
P099	506-61-6	Argentate(1-),bis(cyano-C)-, potassium
P010	7778-39-4	Arsenic acid H_3AsO_4
P012	1327-53-3	Arsenic oxide As_2O_3
P011	1303-28-2	Arsenic oxide As_2O_5
P011	1303-28-2	Arsenic pentoxide
P012	1327-53-3	Arsenic trioxide
P038	692-42-2	Arsine, diethyl-
P036	696-28-6	Arsonous dichloride, phenyl-
P054	151-56-4	Aziridine
P067	75-55-8	Aziridine, 2-methyl-
P013	542-62-1	Barium cyanide
P024	106-47-8	Benzenamine, 4-chloro-
P077	100-01-6	Benzenamine, 4-nitro-
P028	100-44-7	Benzene, (chloromethyl)-

Hazardous Waste No.	Chemical Abstracts No.	Substance
P042	51-43-4	1,2-Benzenediol, 4-[1-hydroxy-2-(methylamino)ehtyl]-, (R)
P046	122-09-8	Benzeneethanamine, alpha,alpha-dimethyl-
P014	108-98-5	Benzenethiol
P001	[1]81-81-2	2H-1-Benzopyran-2-one, 4-hydroxy-3-(3-oxo-1-phenylbutyl)-, & salts, when present at concentrations greater than 0.3%
P028	100-44-7	Benzyl chloride
P015	7440-41-7	Beryllium
P017	598-31-2	Bromoacetone
P018	357-57-3	Brucine
P045	39196-18-4	2-Butanone, 3,3-dimethyl-1-(methylthio)-,O-[(methylamino) carbonyl] oxime
P021	592-01-8	Calcium cyanide
P021	592-01-8	Calcium cyanide $Ca(CN)_2$
P022	75-15-0	Carbon disulfide
P095	75-44-5	Carbonic dichloride
P023	107-20-0	Chloroacetaldehyde
P024	106-47-8	p-Chloroaniline
P026	5344-82-1	1-(o-Chlorophenyl)thiourea
P027	542-76-7	3-Chloropropionitrile
P029	544-92-3	Copper cyanide
P029	544-92-3	Copper cyanide Cu(CN)
P030	----	Cyanides (soluble cyanide salts), not otherwise specified

Hazardous Waste No.	Chemical Abstracts No.	Substance
P031	460-19-5	Cyanogen
P033	506-77-4	Cyanogen chloride
P033	506-77-4	Cyanogen chloride (CN)Cl
P034	131-89-5	2-Cyclohexyl-4,6-dinitrophenol
P016	542-88-1	Dichloromethyl ether
P036	696-28-6	Dichlorophenylarsine
P037	60-57-1	Dieldrin
P038	692-42-2	Diethylarsine
P041	311-45-5	Diethyl-p-nitrophenyl phosphate
P040	297-97-2	O,O-Diethyl O-Pyrazinyl phosphorothioate
P043	55-91-4	Diisopropylfluorophosphate (DFP)
P004	309-00-2	1,4,5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a-hexahydro-,(1alpha,4alpha,4abeta, 5alpha, 8alpha, 8abeta)-
P060	465-73-6	1,4,5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a-hexahydro-,(1alpha, 4alpha,4abeta,5beta,8beta,8abeta)-
P037	60-57-1	2,7:3,6-Dimethanonaphth[2,3-b]oxirene, 3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a-octahydro-, (1aalpha,2beta,2aalpha,3beta,6beta, 6aalpha,7beta,7aalpha)-
P051	[1]72-20-8	2,7:3,6-Dimethanonaphth[2,3-b]-oxirene,3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a-octahydro-, (1aalpha,2beta,2abeta,3alpha,6alpha, 6abeta,7beta,7aalpha)-, & metabolites
P044	60-51-5	Dimethoate

Hazardous Waste No.	Chemical Abstracts No.	Substance
P046	122-09-8	alpha,alpha-Dimethylphenethylamine
P047	[1]534-52-1	4,6-Dinitro-o-cresol, & salts
P048	51-28-5	2,4-Dinitrophenol
P020	88-85-7	Dinoseb
P085	152-16-9	Diphosphoramide, octamethyl-
P111	107-49-3	Diphosphoric acid, tetraethyl ester
P039	298-04-4	Disulfoton
P049	541-53-7	Dithiobiuret
P050	115-29-7	Endosulfan
P088	145-73-3	Endothall
P051	72-20-8	Endrin
P051	72-20-8	Endrin, & metabolites
P042	51-43-4	Epinephrine
P031	460-19-5	Ethanedinitrile
P066	16752-77-5	Ethanimidothioic acid, N-[[(methylamino)carbonyl]oxy]-, methyl ester
P101	107-12-0	Ethyl cyanide
P054	151-56-4	Ethyleneimine
P097	52-85-7	Famphur
P056	7782-41-4	Fluorine
P057	640-19-7	Fluoroacetamide
P058	62-74-8	Fluoroacetic acid, sodium salt
P065	628-86-4	Fulminic acid, mercury(2+) salt (R,T)
P059	76-44-8	Heptachlor

Hazardous Waste No.	Chemical Abstracts No.	Substance
P062	757-58-4	Hexaethyl tetraphosphate
P116	79-19-6	Hydrazinecarbothioamide
P068	60-34-4	Hydrazine, methyl-
P063	74-90-8	Hydrocyanic acid
P063	74-90-8	Hydrogen cyanide
P096	7803-51-2	Hydrogen phosphide
P060	465-73-6	Isodrin
P007	2763-96-4	3(2H)-Isoxazolone, 5-(aminomethyl)-
P092	62-38-4	Mercury, (acetato-O)phenyl-
P065	628-86-4	Mercury fulminate (R,T)
P082	62-75-9	Methanamine, N-methyl-N-nitroso-
P064	624-83-9	Methane, isocyanato-
P016	542-88-1	Methane, oxybis[chloro-
P112	509-14-8	Methane, tetranitro- (R)
P118	75-70-7	Methanethiol, trichloro-
P050	115-29-7	6,9-Methano-2,4,3-benzodioxathiepin, 6,7,8,9,10,10-hexachloro-1,5,5a,6,9,9a-hexahydro-,3-oxide
P059	76-44-8	4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-
P066	16752-77-5	Methomyl
P068	60-34-4	Methyl hydrazine
P064	624-83-9	Methyl isocyanate
P069	75-86-5	2-Methyllactonitrile
P071	298-00-0	Methyl parathion

Hazardous Waste No.	Chemical Abstracts No.	Substance
P072	86-88-4	alpha-Naphthylthiourea
P073	13463-39-3	Nickel carbonyl
P073	13463-39-3	Nickel carbonyl ($Ni(CO)_4$, (T,4)-
P074	557-19-7	Nickel cyanide
P074	557-19-7	Nickel cyanide $Ni(CN)_2$
P075	[1]54-11-5	Nicotine, & salts
P076	10102-43-9	Nitric oxide
P077	100-01-6	p-Nitroaniline
P078	10102-44-0	Nitrogen dioxide
P076	10102-43-9	Nitrogen oxide NO
P078	10102-44-0	Nitrogen oxide NO_2
P081	55-63-0	Nitroglycerine (R)
P082	62-75-9	N-Nitrosodimethylamine
P084	4549-40-0	N-Nitrosomethylvinylamine
P085	152-16-9	Octamethylpyrophosphoramide
P087	20816-12-0	Osmium oxide OsO_4,(T-4)-
P087	20816-12-0	Osmium tetroxide
P088	145-73-3	7-Oxabicyclo[2.2.1]heptane-2,3-dicarboxylic acid
P089	56-38-2	Parathion
P034	131-89-5	Phenol, 2-cyclohexyl-4,6-dinitro-
P048	51-28-5	Phenol, 2,4,dinitro
P047	[1]534-52-1	Phenol, 2-methyl-4,6-dinitro-, & salts
P020	88-85-7	Phenol, 2-(1-methylpropyl)-4,6-dinitro-

Hazardous Waste No.	Chemical Abstracts No.	Substance
P009	131-74-8	Phenol, 2,4,6-trinitro-, ammonium salt (R)
P092	62-38-4	Phenylmercury acetate
P093	103-85-5	Phenylthiourea
P094	298-02-2	Phorate
P095	75-44-5	Phosgene
P096	7803-51-2	Phosphine
P041	311-45-5	Phosphoric acid, diethyl 4-nitrophenyl ester
P039	298-04-4	Phosphorodithioic acid, O,O-diethyl S-[2-(ethylthio)ethyl] ester
P094	298-02-2	Phosphorodithioic acid, O,O-diethyl S-[(ethylthio)methyl]ester
P044	60-51-5	Phosphorodithioic acid, O,O-dimethyl S-[2-(methylamino)-2-oxoethyl] ester
P043	55-91-4	Phosphorofluoridic acid, bis(1-methylethyl) ester
P089	56-38-2	Phosphorothioic acid, O,O-diethyl O-(4-nitrophenyl) ester
P040	297-97-2	Phosphorothioic acid, O,O-diethyl O-pyrazinyl ester
P097	52-85-7	Phosphorothioic acid, O-[4-[(dimethylamino)sulfonyl]phenyl] O,O-dimethyl ester
P071	298-00-0	Phosphorothioic acid, O,O-dimethyl O-(4-nitrophenyl) ester
P110	78-00-2	Plumbane, tetraethyl-
P098	151-50-8	Potassium cyanide
P098	151-50-8	Potassium cyanide K(CN)
P099	506-61-6	Potassium silver cyanide

Hazardous Waste No.	Chemical Abstracts No.	Substance
P070	116-06-3	Propanal, 2-methyl-2-(methylthio)-, O-[(methylamino)carbonyl]oxime
P101	107-12-0	Propanenitrile
P027	542-76-7	Propanenitrile, 3-chloro-
P069	75-86-5	Propanenitrile, 2-hydroxy-2-methyl-
P081	55-63-0	1,2,3-Propanetriol, trinitrate (R)
P017	598-31-2	2-Propanone, 1-bromo-
P102	107-19-7	Propargyl alcohol
P003	107-02-8	2-Propenal
P005	107-18-6	2-Propen-1-ol
P067	75-55-8	1,2-Propylenimine
P102	107-19-7	2-Propyn-1-ol
P008	504-24-5	4-Pyridinamine
P075	[1]54-11-5	Pyridine, 3-(1-methyl-2-pyrrolidinyl)-, (S)-, & salts
P114	12039-52-0	Selenious acid, dithallium (1+) salt
P103	630-10-4	Selenourea
P104	506-64-9	Silver cyanide
P104	506-64-9	Silver cyanide Ag(CN)
P105	26628-22-8	Sodium azide
P106	143-33-9	Sodium cyanide
P106	143-33-9	Sodium cyanide Na(CN)
P108	[1]57-24-9	Strychnidin-10-one, & salts

Hazardous Waste No.	Chemical Abstracts No.	Substance
P018	357-57-3	Strychnidin-10-one, 2,3-dimethoxy-
P108	[1]57-24-9	Strychnine, & salts
P115	7446-18-6	Sulfuric acid, dithallium(1+) salt
P109	3689-24-5	Tetraethyldithiopyrophosphate
P110	78-00-2	Tetraethyl lead
P111	107-49-3	Tetraethyl pyrophosphate
P112	509-14-8	Tetranitromethane (R)
P062	757-58-4	Tetraphosphoric acid, hexaethyl ester
P113	1314-32-5	Thallic oxide
P113	1314-32-5	Thallium oxide Tl_2O_3
P114	12039-52-0	Thallium(I)selenite
P115	7446-18-6	Thallium(I)sulfate
P109	3689-24-5	Thiodiphosphoric acid, tetraethyl ester
P045	39196-18-4	Thiofanox
P049	541-53-7	Thioimidodicarbonic diamide $[(H_2N)C(S)]_2NH$
P014	108-98-5	Thiophenol
P116	79-19-6	Thiosemicarbazide
P026	5344-82-1	Thiourea, (2-chlorophenyl)-
P072	86-88-4	Thiourea, 1-naphthalenyl-
P093	103-85-5	Thiourea, phenyl-
P123	8001-35-2	Toxaphene
P118	75-70-7	Trichloromethanethiol
P119	7803-55-6	Vanadic acid, ammonium salt

Hazardous Waste No.	Chemical Abstracts No.	Substance
P120	1314-62-1	Vanadium oxide V_2O_5
P120	1314-62-1	Vanadium pentoxide
P084	4549-40-0	Vinylamine, N-methyl-N-nitroso-
P001	[1]81-81-2	Warfarin, & salts, when present at concentrations greater than 0.3%
P121	557-21-1	Zinc cyanide
P121	557-21-1	Zinc cyanide $Zn(CN)_2$
P122	1314-84-7	Zinc phosphide Zn_3P_2, when present at concentrations greater than 10% (R,T)

[1]CAS Number given for parent compound only.

(F) The commercial chemical products, manufacturing chemical intermediates, or off-specification commercial chemical products referred to in paragraphs (A) through (D) of this section, are identified as toxic wastes (T), unless otherwise designated and are subject to the small quantity generator exclusion defined in 40 CFR 261.5(a) and (g). These wastes and their corresponding EPA Hazardous Waste Codes are:

Hazardous Waste No.	Chemical Abstracts No.	Substance
U001	75-07-0	Acetaldehyde (I)
U034	75-87-6	Acetaldehyde, trichloro-
U187	62-44-2	Acetamide, N-(4-ethoxyphenyl)-
U005	53-96-3	Acetamide, N-9H-fluoren-2-yl-
U240	[1]94-75-7	Acetic acid, (2,4-dichlorophenoxy)-, salts & esters
U112	141-78-6	Acetic acid, ethyl ester (I)

Hazardous Waste No.	Chemical Abstracts No.	Substance
U144	301-04-2	Acetic acid, lead (2+) salt
U214	563-68-8	Acetic acid, thallium (1+) salt
See F027	93-76-5	Acetic acid, (2,4,5-trichlorophenoxy)-
U002	67-64-1	Acetone (I)
U003	75-05-8	Acetonitrile (I,T)
U004	98-86-2	Acetophenone
U005	53-96-3	2-Acetylaminofluorene
U006	75-36-5	Acetyl chloride (C,R,T)
U007	79-06-1	Acrylamide
U008	79-10-7	Acrylic acid (I)
U009	107-13-1	Acrylonitrile
U011	61-82-5	Amitrole
U012	62-53-3	Aniline (I,T)
U136	75-60-5	Arsinic acid, dimethyl-
U014	492-80-8	Auramine
U015	115-02-6	Azaserine
U010	50-07-7	Azirino[2',3':3,4]pyrrolo[1,2-a]indole-4,7-dione, 6-amino-8-[[(aminocar-bonyl)oxy]methyl]-1,1a,2,8,8a,8b, hexahydo-8a-methoxy-5-methyl-,[1aS-(1aalpha, 8beta,8aalpha,8balpha)]-
U157	56-49-5	Benz[j]aceanthrylene, 1,2-dihydro-3-methyl-
U016	225-51-4	Benz[c]acridine
U017	98-87-3	Benzal chloride

Hazardous Waste No.	Chemical Abstracts No.	Substance
U192	23950-58-5	Benzamide, 3,5-dichloro-N-(1,1-dimethyl-2-propynl)-
U018	56-55-3	Benz[a]anthracene
U094	57-97-6	Benz[a]anthracene, 7,12-dimethyl-
U012	62-53-3	Benzenamine (I,T)
U014	492-80-8	Benzenamine, 4,4'-carbonimidoylbis [N,N-dimethyl-
U049	3165-93-3	Benzenamine, 4-chloro-2-methyl, hydrochloride
U093	60-11-7	Benzenamine, N,N-dimethyl-4-(phenylazo)-
U328	95-53-4	Benzenamine, 2-methyl-
U353	106-49-0	Benzenamine, 4-methyl-
U158	101-14-4	Benzenamine, 4,4'-methylenebis [2-chloro-
U222	636-21-5	Benzenamine, 2-methyl-,hydro-chloride
U181	99-55-8	Benzenamine, 2-methyl-5-nitro-
U019	71-43-2	Benzene (I,T)
U038	510-15-6	Benzeneacetic acid, 4-chloro-alpha-(4-chlorophenyl)-alpha-hydroxy, ethyl ester
U030	101-55-3	Benzene, 1-bromo-4-phenoxy-
U035	305-03-3	Benzenebutanoic acid, 4-[bis(2-chloroethyl)amino]-
U037	108-90-7	Benzene, chloro-
U221	25376-45-8	Benzenediamine, ar-methyl-
U028	117-81-7	1,2-Benezenedicarboxylic acid, bis(2-ethyl-hexyl) ester

Hazardous Waste No.	Chemical Abstracts No.	Substance
U069	84-74-2	1,2-Benzenedicarboxylic acid, dibutyl ester
U088	84-66-2	1,2-Benzenedicarboxylic acid, diethyl ester
U102	131-11-3	1,2-Benzenedicarboxylic acid, dimethyl ester
U107	117-84-0	1,2-Benzenedicarboxylic acid dioctyl ester
U070	95-50-1	Benzene, 1,2-dichloro-
U071	541-73-1	Benzene, 1,3-dichloro-
U072	106-46-7	Benzene, 1,4-dichloro
U060	72-54-8	Benzene, 1,1'-(2,2-dichloro-ethylidene)bis[4-chloro-
U017	98-87-3	Benzene, (dichloromethyl)-
U223	26471-62-5	Benzene, 1,3-diisocyanatomethyl- (R,T)
U239	1330-20-7	Benzene, dimethyl- (I,T)
U201	108-46-3	1,3-Benzenediol
U127	118-74-1	Benzene, hexachloro-
U056	110-82-7	Benzene, hexahydro- (I)
U220	108-88-3	Benzene, methyl-
U105	121-14-2	Benzene, 1-methyl-2,4-dinitro-
U106	606-20-2	Benzene, 2-methyl-1,3-dinitro-
U055	98-82-8	Benzene, (1-methylethyl)- (I)
U169	98-95-3	Benzene, nitro-
U183	608-93-5	Benzene, pentachloro-
U185	82-68-8	Benzene, pentachloronitro-

Hazardous Waste No.	Chemical Abstracts No.	Substance
U020	98-09-9	Benzenesulfonic acid chloride (C,R)
U020	98-09-9	Benzenesulfonyl chloride (C,R)
U207	95-94-3	Benzene, 1,2,4,5-tetrachloro-
U061	50-29-3	Benzene, 1,1'-(2,2,2-trichloroethylidene)bis[4-chloro-
U247	72-43-5	Benzene, 1,1'-(2,2,2-trichloroethylidene)bis[4-methoxy-
U023	98-07-7	Benzene, (trichloromethyl)-
U234	99-35-4	Benzene, 1,3,5-trinitro-
U021	92-87-5	Benzidine
U202	[1]81-07-2	1,2-Benzisothiazol-3(2H)-one, 1,1-dioxide, & salts
U203	94-59-7	1,3-Benzodioxole, 5-(2-propenyl)-
U141	120-58-1	1,3-Benzoidioxole, 5-(1-propenyl)-
U090	94-58-6	1,3-Benzodioxole, 5-propyl-
U064	189-55-9	Benzo[rst]pentaphene
U248	[1]81-81-2	2H-1-Benzopyran-2-one, 4-hydroxy-3-(3-oxo-1-phenylbutyl)-, & salts, when present at concentrations of 0.3% or less
U022	50-32-8	Benzo[a]pyrene
U197	106-51-4	p-Benzoquinone
U023	98-07-7	Benzotrichloride (C,R,T)
U085	1464-53-5	2,2'-Bioxirane
U021	92-87-5	[1,1'-Biphenyl]-4,4'-diamine
U073	91-94-1	[1,1'-Biphenyl]-4,4'-diamine, 3,3'-dichloro-

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Hazardous Waste No.	Chemical Abstracts No.	Substance
U091	119-90-4	[1,1'-Biphenyl]-4,4'-diamine, 3,3'-dimethoxy-
U095	119-93-7	[1,1'-Biphenyl]-4,4'-diamine, 3,3'-dimethyl-
U225	75-25-2	Bromoform
U030	101-55-3	4-Bromophenyl phenyl ether
U128	87-68-3	1,3-Butadiene, 1,1,2,3,4,4-hexachloro-
U172	924-16-3	1-Butanamine, N-butyl-N-nitroso-
U031	71-36-3	1-Butanol (I)
U159	78-93-3	2-Butanone (I,T)
U160	1338-23-4	2-Butanone peroxide (R,T)
U053	4170-30-3	2-Butenal
U074	764-41-0	2-Butene, 1,4-dichloro- (I,T)
U143	303-34-4	2-Butenoic acid, 2-methyl-,7-[[2,3-dihydroxy-2-(1-methoxyethyl)-3-methyl-1-oxobutoxy]methyl]2,3,5,7a-tetrahydro-1H-pyrrolizin-1-yl ester, [1S-[1alpha(Z),7(2S*,3R*), 7aalpha]]-
U031	71-36-3	n-Butyl alcohol (I)
U136	75-60-5	Cacodylic acid
U032	13765-19-0	Calcium chromate
U238	51-79-6	Carbamic acid, ethyl ester
U178	615-53-2	Carbamic acid, methylnitroso-, ethyl ester
U097	79-44-7	Carbamic chloride, dimethyl-
U114	[1]111-54-6	Carbamodithioic acid, 1,2-ethanediyl- bis, salts & esters

Hazardous Waste No.	Chemical Abstracts No.	Substance
U062	2303-16-4	Carbamothioic acid, bis(1-methyl-ethyl)-, S- (2,3-dichloro-2-propenyl) ester
U215	6533-73-9	Carbonic acid, dithallium (1+) salt
U033	353-50-4	Carbonic difluoride
U156	79-22-1	Carbonochloridic acid, methyl ester (I,T)
U033	353-50-4	Carbon oxyfluoride (R,T)
U211	56-23-5	Carbon tetrachloride
U034	75-87-6	Chloral
U035	305-03-3	Chlorambucil
U036	57-74-9	Chlordane, alpha & gamma isomers
U026	494-03-1	Chlornaphazin
U037	108-90-7	Chlorobenzene
U038	510-15-6	Chlorobenzilate
U039	59-50-7	p-Chloro-m-cresol
U042	110-75-8	2-Chloroethyl vinyl ether
U044	67-66-3	Chloroform
U046	107-30-2	Chloromethyl methyl ether
U047	91-58-7	beta-Chloronaphthalene
U048	95-57-8	o-Chlorophenol
U049	3165-93-3	4-Chloro-o-toluidine, hydrochloride
U032	13765-19-0	Chromic acid H_2CrO_4, calcium salt
U050	218-01-9	Chrysene
U051	----	Creosote
U052	1319-77-3	Cresol (Cresylic acid)

Hazardous Waste No.	Chemical Abstracts No.	Substance
U053	4170-30-3	Crotonaldehyde
U055	98-82-8	Cumene (I)
U246	506-68-3	Cyanogen bromide (CN)Br
U197	106-51-4	2,5-Cyclohexadiene-1,4-dione
U056	110-82-7	Cyclohexane (I)
U129	58-89-9	Cyclohexane, 1,2,3,4,5,6-hexachloro-, (1alpha,2alpha,3beta,4alpha,5alpha,6beta)-
U057	108-94-1	Cyclohexanone (I)
U130	77-47-4	1,3-Cyclopentadiene, 1,2,3,4,5,5-hexa-chloro-
U058	50-18-0	Cyclophosphamide
U240	[1]94-75-7	2,4-D, salts & esters
U059	20830-81-3	Daunomycin
U060	72-54-8	DDD
U061	50-29-3	DDT
U062	2303-16-4	Diallate
U063	53-70-3	Dibenz[a,h]anthracene
U064	189-55-9	Dibenzo[a,i]pyrene
U066	96-12-8	1,2-Dibromo-3-chloropropane
U069	84-74-2	Dibutyl phthalate
U070	95-50-1	o-Dichlorobenzene
U071	541-73-1	m-Dichlorobenzene
U072	106-46-7	p-Dichlorobenzene
U073	91-94-1	3,3'-Dichlorobenzidine

Hazardous Waste No.	Chemical Abstracts No.	Substance
U074	764-41-0	1,4-dichloro-2-butene (I,T)
U075	75-71-8	Dichlorodifuloromethane
U078	75-35-4	1,1-Dichloroethylene
U079	156-60-5	1,2-Dichloroethylene
U025	111-44-4	Dichloroethyl ether
U027	108-60-1	Dichloroisopropyl ether
U024	111-91-1	Dichloromethoxy ethane
U081	120-83-2	2,4-Dichlorophenol
U082	87-65-0	2,6-Dichlorophenol
U084	542-75-6	1,3-Dichloropropene
U085	1464-53-5	1,2:3,4-Diepoxybutane (I,T)
U108	123-91-1	1,4-Diethyleneoxide
U028	117-81-7	Diethylhexyl phthalate
U086	1615-80-1	N,N'-Diethylhydrazine
U087	3288-58-2	O,O-Diethyl S-methyl dithiophosphate
U088	84-66-2	Diethyl phthalate
U089	56-53-1	Diethylstilbesterol
U090	94-58-6	Dihydrosafrole
U091	119-90-4	3,3'-Dimethoxybenzidine
U092	124-40-3	Dimethylamine (I)
U093	60-11-7	p-Dimethylaminoazobenzene
U094	57-97-6	7,12-Dimethylbenz[a]anthracene
U095	119-93-7	3,3'-Dimethylbenzidine
U096	80-15-9	alpha,alpha-Dimethylbenzylhydroperoxide (R)

Hazardous Waste No.	Chemical Abstracts No.	Substance
U097	79-44-7	Dimethylcarbamoyl chloride
U098	57-14-7	1,1-Dimethylhydrazine
U099	540-73-8	1,2-Dimethylhydrazine
U101	105-67-9	2,4-Dimethylphenol
U102	131-11-3	Dimethyl phthalate
U103	77-78-1	Dimethyl sulfate
U105	121-14-2	2,4-Dinitrotoluene
U106	606-20-2	2,6-Dinitrotoluene
U107	117-84-0	Di-n-octyl phthalate
U108	123-91-1	1,4-Dioxane
U109	122-66-7	1,2-Diphenylhydrazine
U110	142-84-7	Dipropylamine (I)
U111	621-64-7	Di-n-propylnitrosamine
U041	106-89-8	Epichlorohydrin
U001	75-07-0	Ethanal (I)
U174	55-18-5	Ethanamine, N-ethyl-N-nitroso-
U155	91-80-5	1,2-Ethanediamine, N,N-dimethyl-N'-2-pyridinyl-N'-(2-thienylmethyl)-
U067	106-93-4	Ethane, 1,2-dibromo-
U076	75-34-3	Ethane, 1,1-dichloro-
U077	107-06-2	Ethane, 1,2-dichloro-
U131	67-72-1	Ethane, hexachloro-
U024	111-91-1	Ethane, 1,1'-[methylenebis(oxy)bis [2-chloro-
U117	60-29-7	Ethane, 1,1'-oxybis- (I)

Hazardous Waste No.	Chemical Abstracts No.	Substance
U025	111-44-4	Ethane, 1,1'-oxybis[2-chloro-
U184	76-01-7	Ethane, pentachloro-
U208	630-20-6	Ethane, 1,1,1,2-tetrachloro-
U209	79-34-5	Ethane, 1,1,2,2-tetrachloro-
U218	62-55-5	Ethanethioamide
U226	71-55-6	Ethane, 1,1,1-trichloro-
U227	79-00-5	Ethane, 1,1,2-trichloro-
U359	110-80-5	Ethanol, 2-ethoxy-
U173	1116-54-7	Ethanol, 2,2'-(nitrosoimino)bis-
U004	98-86-2	Ethanone, 1-phenyl-
U043	75-01-4	Ethene, chloro-
U042	110-75-8	Ethene, (2-chloroethoxy)-
U078	75-35-4	Ethene, 1,1-dichloro-
U079	156-60-5	Ethene, 1,2-dichloro-, (E)-
U210	127-18-4	Ethene, tetrachloro-
U228	79-01-6	Ethene, trichloro
U112	141-78-6	Ethyl acetate (I)
U113	140-88-5	Ethyl acrylate (I)
U238	51-79-6	Ethyl carbamate (urethane)
U117	60-29-7	Ethyl ether (I)
U114	[1]111-54-6	Ethylenebisdithiocarbamic acid, salts & esters
U067	106-93-4	Ethylene dibromide
U077	107-06-2	Ethylene dichloride
U359	110-80-5	Ethylene glycol monoethyl ether

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Hazardous Waste No.	Chemical Abstracts No.	Substance
U115	75-21-8	Ethylene oxide (I,T)
U116	96-45-7	Ethylenethiourea
U076	75-34-3	Ethylidene dichloride
U118	97-63-2	Ethyl methacrylate
U119	62-50-0	Ethyl methanesulfonate
U120	206-44-0	Fluoranthene
U122	50-00-0	Formaldehyde
U123	64-18-6	Formic acid (C,T)
U124	110-00-9	Furan (I)
U125	98-01-1	2-Furancarboxaldehyde (I)
U147	108-31-6	2,5-Furandione
U213	109-99-9	Furan, tetrahydro- (I)
U125	98-01-1	Furfural (I)
U124	110-00-9	Furfuran (I)
U206	18883-66-4	Glucopyranose, 2-deoxy-2-(3-methyl-3-nitrosoureido-, D-
U206	18883-66-4	D-Glucose, 2-deoxy-2-[[(methyl-nitrosoamino)-carbonyl]amino]-
U126	765-34-4	Glycidylaldehyde
U163	70-25-7	Guanidine, N-methyl-N'-nitro-N-nitroso-
U127	118-74-1	Hexachlorobenzene
U128	87-68-3	Hexachlorobutadiene
U130	77-47-4	Hexachlorocyclopentadiene
U131	67-72-1	Hexachloroethane
U132	70-30-4	Hexachlorophene

Hazardous Waste No.	Chemical Abstracts No.	Substance
U243	1888-71-7	Hexachloropropene
U133	302-01-2	Hydrazine (R,T)
U086	1615-80-1	Hydrazine, 1,2-diethyl-
U098	57-14-7	Hydrazine, 1,1-dimethyl-
U099	540-73-8	Hydrazine, 1,2-dimethyl-
U109	122-66-7	Hydrazine, 1,2-diphenyl-
U134	7664-39-3	Hydrofluoric acid (C,T)
U134	7664-39-3	Hydrogen fluoride (C,T)
U135	7783-06-4	Hydrogen sulfide
U135	7783-06-4	Hydrogen sulfide H_2S
U096	80-15-9	Hydroperoxide, 1-methyl-1-phenylethyl- (R)
U116	96-45-7	2-Imidazolidinethione
U137	193-39-5	Indeno[1,2,3-cd]pyrene
U190	85-44-9	1,3-Isobenzofurandione
U140	78-83-1	Isobutyl alcohol (I,T)
U141	120-58-1	Isosafrole
U142	143-50-0	Kepone
U143	303-34-4	Lasiocarpine
U144	301-04-2	Lead acetate
U146	1335-32-6	Lead, bis(acetato-O)tetrahydroxytri-
U145	7446-27-7	Lead phosphate
U146	1335-32-6	Lead subacetate
U129	58-89-9	Lindane
U163	70-25-7	MNNG

Hazardous Waste No.	Chemical Abstracts No.	Substance
U147	108-31-6	Maleic anhydride
U148	123-33-1	Maleic hydrazide
U149	109-77-3	Malononitrile
U150	148-82-3	Melphalan
U151	7439-97-6	Mercury
U152	126-98-7	Methacrylonitrile (I,T)
U092	124-40-3	Methanamine, N-methyl- (I)
U029	74-83-9	Methane, bromo-
U045	74-87-3	Methane, chloro- (I,T)
U046	107-30-2	Methane, chloromethoxy-
U068	74-95-3	Methane, dibromo-
U080	75-09-2	Methane, dichloro-
U075	75-71-8	Methane, dichlorodifluoro-
U133	74-88-4	Methane, iodo-
U119	62-50-0	Methanesulfonic acid, ethyl ester
U211	56-23-5	Methane, tetrachloro-
U153	74-93-1	Methanethiol (I,T)
U225	75-25-2	Methane, tribromo-
U044	67-66-3	Methane, trichloro-
U121	75-69-4	Methane, trichlorofluoro-
U036	57-74-9	4,7-Methano-1H-indene, 1,2,4,5,6,7,8,8-octachloro-2,3,3a,4,7,7a-hexahydro-
U154	67-56-1	Methanol (I)
U155	91-80-5	Methapyrilene

Hazardous Waste No.	Chemical Abstracts No.	Substance
U142	143-50-0	1,3,4-Metheno-2H-cyclobuta[cd] pentalen-2-one, 1,1a,3,3a,4,5,5,5a,5b,6-decachlorooctahydro-
U247	72-43-5	Methoxychlor
U154	67-56-1	Methyl alcohol (I)
U029	74-83-9	Methyl bromide
U186	504-60-9	1-Methylbutadiene (I)
U045	74-87-3	Methyl chloride (I,T)
U156	79-22-1	Methyl chlorocarbonate (I,T)
U226	71-55-6	Methyl chloroform
U157	56-49-5	3-Methylcholanthrene
U158	101-14-4	4,4'-Methylenebis(2-chloroaniline)
U068	74-95-3	Methylene bromide
U080	75-09-2	Methylene Chloride
U159	78-93-3	Methyl ethyl ketone (MEK) (I,T)
U160	1338-23-4	Methyl ethyl ketone peroxide (R,T)
U138	74-88-4	Methyl iodide
U161	108-10-1	Methyl isobutyl ketone (I)
U162	80-62-6	Methyl methacrylate (I,T)
U161	108-10-1	4-Methyl-2-pentanone (I)
U164	56-04-2	Methylthiouracil
U010	50-07-7	Mitomycin C
U059	20830-81-3	5,12-Naphthacenedione, 8-acetyl-10-[3-amino-2,3,6-trideoxy)-alpha-L-lyxo-hexopyranosyl)oxy]-7,8,9,10-tetrahydro-6,8,11-trihydroxy-1-methoxy-, (8S-cis)-

Hazardous Waste No.	Chemical Abstracts No.	Substance
U167	134-32-7	1-Naphthalenamine
U168	91-59-8	2-Naphthalenamine
U026	494-03-1	Naphthalenamine, N,N'-bis(2-chloroethyl)-
U165	91-20-3	Naphthalene
U047	91-58-7	Naphthalene, 2-chloro-
U166	130-15-4	1,4-Naphthalenedione
U236	75-57-1	2,7-Naphthalenedisulfonic acid, 3,3'-[(3,3'-dimethyl[1,1'-biphenyl]-4,4'-diyl)bis(azo)bis[5-amino-4-hydroxy]-tetrasodium salt
U166	130-15-4	1,4-Naphthoquinone
U167	134-32-7	alpha-Naphthylamine
U168	91-59-8	beta-Naphthylamine
U217	10102-45-1	Nitric acid, thallium (1+) salt
U169	98-95-3	Nitrobenzene (I,T)
U170	100-02-7	p-Nitrophenol
U171	79-46-9	2-Nitropropane (I,T)
U172	924-16-3	N-Nitrosodi-n-butylamine
U173	1116-54-7	N-Nitrosodiethanolamine
U174	55-18-5	N-Nitrosodiethylamine
U176	759-73-9	N-Nitroso-N-ethylurea
U177	684-93-5	N-Nitroso-N-methylurea
U178	615-53-2	N-Nitroso-N-methylurethane
U179	100-75-4	N-Nitrosopiperidine
U180	930-55-2	N-Nitrosopyrrolidine

Hazardous Waste No.	Chemical Abstracts No.	Substance
U181	99-55-8	5-Nitro-o-toluidine
U193	1120-71-4	1,2-Oxathiolane, 2,2-dioxide
U058	50-18-0	2H-1,3,2-Oxazaphosphorin-2-amine, N,N-bis(2-chloroethyl)tetra-hydro-,2-oxide
U115	75-21-8	Oxirane (I,T)
U126	765-34-4	Oxiranecarboxyaldehyde
U041	106-89-8	Oxirane, (chloromethyl)-
U182	123-63-7	Paraldehyde
U183	608-93-5	Pentachlorobenzene
U184	74-01-7	Pentachloroethane
U185	82-68-8	Pentachloronitrobenzene (PCNB)
See F027	87-86-5	Pentachlorophenol
U161	108-10-1	Pentanol, 4-methyl-
U186	504-60-9	1,3-Pentadiene (I)
U187	62-44-2	Phenacetin
U188	108-95-2	Phenol
U048	95-57-8	Phenol, 2-chloro-
U039	59-50-7	Phenol, 4-chloro-3-methyl-
U081	120-83-2	Phenol, 2,4-dichloro-
U082	87-65-0	Phenol, 2,6-dichloro-
U089	56-53-1	Phenol, 4,4'-(1,2-diethyl-1,2-ethenediyl)bis-,(E)-
U101	105-67-9	Phenol, 2,4-dimethyl-
U052	1319-77-3	Phenol, methyl-

Hazardous Waste No.	Chemical Abstracts No.	Substance
U132	70-30-4	Phenol, 2,2'-methylenebis[3,4,6-trichloro-
U170	100-02-7	Phenol, 4-nitro-
See F027	87-86-5	Phenol, pentachloro-
See F027	58-90-2	Pehnol, 2,3,4,6-tetrachloro-
See F027	95-95-4	Phenol, 2,4,5-trichloro-
See F027	88-06-2	Phenol, 2,4,6-trichloro-
U150	148-82-3	L-Phenylalanine, 4-[bis(2-chloroethyl)amino]-
U145	7446-27-7	Phosphoric acid, lead(2+) salt (2:3)
U087	3288-58-2	Phosphorodithioic acid, O,O-diethyl S-methyl ester
U189	1314-80-3	Phosphorus sulfide (R)
U190	85-44-9	Phthalic anhydride
U191	109-06-8	2-Picoline
U179	100-75-4	Pipenidine, 1-nitroso-
U192	23950-58-5	Pronamide
U194	107-10-8	1-Propanamine (I,T)
U111	621-64-7	1-Propanamine, N-nitroso-N-propyl-
U110	142-84-7	1-Propanamine, N-propyl- (I)
U066	96-12-8	Propane, 1,2-dibromo-3-chloro
U083	78-87-5	Propane, 1,2-dichloro-
U149	109-77-3	Propanedinitrile
U171	79-46-9	Propane, 2-nitro- (I,T)

Hazardous Waste No.	Chemical Abstracts No.	Substance
U027	108-60-1	Propane, 2,2'-oxybis[2-chloro-
U193	1120-71-4	1,3-Propane sultone
See F027	93-72-1	Propanoic acid, 2-(2,4,5-trichlorophenoxy)-
U235	126-72-7	1-Propanol, 2,3-dibromo-, phosphate (3:1)
U140	78-83-1	1-Propanol, 2-methyl- (I,T)
U002	67-64-1	2-Propanone (I)
U007	79-06-1	2-Propenamide
U084	542-75-6	1-Propene, 1,3-dichloro-
U243	[1]888-71-7	1-Propene,1,1,2,3,3,3-hexachloro-
U009	107-13-1	2-Propenenitrile
U152	126-98-7	2-Propenenitrile, 2-methyl- (I,T)
U008	79-10-7	2-Propenoic acid (I)
U113	140-88-5	2-Propenoic acid, ethyl ester (I)
U118	97-63-2	2-Propenoic acid, 2-methyl-, ethyl ester
U162	80-62-6	2-Propenoic acid, 2-methyl-, methyl ester (I,T)
U194	107-10-8	n-Propylamine (I,T)
U083	78-87-5	Propylene dichloride
U148	123-33-1	3,6-Pyridazinedione, 1,2-dihydro
U198	110-86-1	Pyridine
U191	109-06-8	Pyridine, 2-methyl
U237	66-75-1	2,4-(1H,3H)-Pyrimidinedione,5-[bis(2-chloroethyl)amino]-

Hazardous Waste No.	Chemical Abstracts No.	Substance
U164	56-04-2	4(1H)-Pyrimidinone, 2,3-dihydro-6-methyl-2-thioxo-
U180	930-55-2	Pyrrolidine, 1-nitroso-
U200	50-55-5	Reserpine
U201	108-46-3	Resorcinol
U202	[1]81-07-2	Saccharin, & salts
U203	94-59-7	Safrole
U204	7783-00-8	Selenious acid
U204	7783-00-8	Selenium dioxide
U205	7488-56-4	Selenium sulfide
U205	7488-56-4	Selenium sulfide SeS_2 (R,T)
U015	115-02-6	L-Serine, diazoacetate (ester)
See F027	93-72-1	Silvex (2,4,5-TP)
U206	18883-66-4	Streptozotocin
U103	77-78-1	Sulfuric acid, dimethyl ester
U189	1314-80-3	Sulfur phosphide (R)
See F027	93-76-5	2,4,5-T
U207	95-94-3	1,2,4,5-Tetrachlorobenzene
U208	630-20-6	1,1,1,2-Tetrachloroethane
U209	79-34-5	1,1,2,2-Tetrachloroethane
U210	127-18-4	Tetrachloroethylene
See F027	58-90-2	2,3,4,6-Tetrachlorophenol
U213	109-99-9	Tetrahydrofuran (I)

Hazardous Waste No.	Chemical Abstracts No.	Substance
U214	563-68-8	Thallium(1) acetate
U215	6533-73-9	Thallium(1) carbonate
U216	7791-12-0	Thallium(1) chloride
U216	7791-12-0	Thallium chloride TlCl
U217	10102-45-1	Thallium(1) nitrate
U218	62-55-5	Thioacetamide
U153	74-93-1	Thiomethanol (I,T)
U244	137-26-8	Thioperoxydicarbonic diamide $[(H_2N)C(S)]_2S_2$, tetramethyl-
U219	62-56-6	Thiourea
U244	137-26-8	Thiram
U220	108-88-3	Toluene
U221	25376-45-8	Toluenediamine
U223	26471-62-5	Toluene diisocyanate (R,T)
U328	95-53-4	o-Toluidine
U353	106-49-0	p-Toluidine
U222	636-21-5	o-Toluidine hydrochloride
U011	61-82-5	1H-1,2,4-Triazol-3-amine
U227	79-00-5	1,1,2-Trichloroethane
U228	79-01-6	Trichloroethylene
U121	75-69-4	Trichloromonofluoromethane
See F027	95-95-4	2,4,5-Trichlorophenol
See F027	88-06-2	2,4,6-Trichlorophenol
U234	99-35-4	1,3,5-Trinitrobenzene (R,T)

Hazardous Waste No.	Chemical Abstracts No.	Substance
U182	123-63-7	1,3,5-Trioxane, 2,4,6-trimethyl-
U235	126-72-7	Tris(2,3-dibromopropyl) phosphate
U236	72-57-1	Trypan blue
U237	66-75-1	Uracil mustard
U176	759-73-9	Urea, n-ethyl-N-nitroso-
U177	684-93-5	Urea, N-methyl-N-nitroso-
U043	75-01-4	Vinyl chloride
U248	[1]81-81-2	Warfarin, & salts, when present at concentrations of 0.3% or less
U239	1330-20-7	Xylene (I)
U200	50-55-5	Yohimban-16-carboxylic qacid, 11,17-dimethoxy-18-[3,4,5-trimethoxybenz-oyl)oxy]-,methyl ester, (3beta,16beta,17alpha,18beta, 20alpha)-
U249	1314-84-7	Zinc phosphide Zn_3P_2, when present at concentrations of 10% or less

[1]CAS Number given for parent compound only.

(e) Any residue, including but not limited to manufacturing process wastes and unused chemicals that has either:

(A) A 3% or greater concentration of any substance or mixture of substances listed in 40 CFR 261.33(e); or

(B) A 10% or greater concentration of any substance or mixture of substances listed in 40 CFR 261.33(f).

(f) The wastes identified in subsections (e)(A) of this rule are identified as acutely hazardous wastes (H) and are subject to the small quantity exclusion defined in 40 CFR 261.5(e).

[**Comment:** Section (2)(e) of this rule shall be applied to a manufacturing process waste only in the event it is not identified elsewhere in OAR Chapter 340, Division 101, but prior to application of section (2)(g) of this rule.]

(g) A pesticide residue or pesticide manufacturing residue is a toxic hazardous waste if a representative sample of the residue exhibits a 96-hour aquatic LC_{50} equal to or less than 250 mg/l.

[**Comment:** A pesticide residue or pesticide manufacturing residue identified section (2)(g)(A) of this rule but not in 40 CFR 261.24 or listed elsewhere in Subpart D of 40 CFR Part 261, has the Hazardous Waste Number of X001.]

(h) The commercial chemical products, manufacturing chemical intermediates, or off-specification commercial chemical products or manufacturing chemical intermediates listed as follows:

(A) P999. . . .Nerve agents (such as GB (Sarin) and VX).

Attachment B
Agenda Item A-3(b)
May 25, 1990

RULEMAKING STATEMENTS
for
Proposed New Rules Pertaining to
Toxics Use Reduction and Hazardous Waste Reduction

OAR Chapter 340, Division 135

Pursuant to ORS 183.335, these statements provide information on the intended action to adopt rules.

STATEMENT OF NEED:

Legal Authority

The 1989 Oregon Legislature passed Senate Bill 3515 and the bill was signed into law by the Governor on July 24, 1989. The legislation established a Toxics Use Reduction and Hazardous Waste Reduction Program in Oregon to be administered by the Department of Environmental Quality. This law is codified in ORS 465.003 through 465.037. The law requires the Environmental Quality Commission to adopt implementing rules no later than September 1, 1990.

Need for Rule

The law requires that rules be adopted for toxics use reduction and hazardous waste reduction plans and reporting requirements. Because this is a new law, it is necessary to provide guidance on procedural requirements and clarification on statutory language.

Principal Documents

1) Oregon Statute, ORS 465.003 through 465.037

2) OAR 340-135-000 through -110 (proposed)

Land Use Consistency

This proposed rule does not affect land use as defined in the Department's coordination program approved by the Land Conservation and Development Commission. It is the Department's position that the proposed rules are consistent with the statewide planning goal to maintain and improve the quality of the air, water and land resources of the state.

Attachment C
Agenda Item A-3(b)
May 25, 1990

FISCAL AND ECONOMIC IMPACT

The proposed rules implement the planning and reporting requirements of the Toxics Use Reduction and Hazardous Waste Reduction Act of 1989. This is a new law and new requirements affecting large toxics users, fully regulated hazardous waste generators and small quantity hazardous waste generators. The rules require each of these toxics users to prepare a plan identifying and selecting alternatives for reducing the use of toxic substances and reducing the generation of hazardous waste. The rules also require the toxics users to report to the Department annually on progress made toward reduction.

Because these are new requirements placed on large and small businesses as well as federal, state and local government, there is an economic impact to these toxics users. The cost of preparing a reduction plan is estimated to range from $1,000 to $50,000 depending on how large the business operation is, how many toxic chemicals they use, and how many hazardous waste streams they generate. The cost of preparing an annual progress report and submitting the required information to the Department ranges from a negligible amount up to $12,000 for one of the largest companies in Oregon. In addition to these costs, some toxics users have indicated there will be costs to set up internal monitoring and accounting systems for tracking toxics use reduction and hazardous waste reduction amounts.

These planning efforts may result in toxics use reduction options that can be implemented to reduce operating costs for toxics users. These cost savings may ultimately offset some of the cost of meeting the proposed requirements of this program.

It is the intent of the Department to provide a technical assistance program that will assist toxics users in completing their plans. The technical assistance will be targeted especially to small businesses to help lower any costs and maximize environmental benefits related to this program.

RECY\YB9546C

Attachment D
Agenda Item A-3(b)
May 25, 1990

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

PROPOSED REGULATIONS
FOR TOXICS USE REDUCTION AND HAZARDOUS WASTE REDUCTION

Date Issued: June 1, 1990
Comments Due: July 10, 1990

WHO IS AFFECTED:

All toxics users - fully regulated hazardous waste generators, small quantity hazardous waste generators, and large users who are required to report under Title III, Section 313 of the Superfund Amendments and Reauthorization Act of 1986.

Citizens of Oregon - who are interested in the protection of the environment and public health and safety through reducing the use of toxic substances.

WHAT IS PROPOSED:

The Department proposes to adopt new administrative rules, OAR 340-135-000 through OAR 340-135-110, to establish the requirements for Toxics Use Reduction and Hazardous Waste Reduction. These rules establish minimum requirements and procedures for preparing reduction plans, annual progress reports, and submitting certain information to the Department of Environmental Quality on progress made toward reduction goals.

WHAT ARE THE HIGHLIGHTS:

The new rules would require all toxics users to prepare reduction plans and notify the Department that plans have been completed. Large users and fully regulated generators must do this by September, 1991 and small quantity generators must complete plans by September, 1992.

All toxics users must complete annual progress reports and submit selected information from those reports to the Department on an annual basis. If you wish to receive a copy of the proposed rules, please call Jan Whitworth in Portland at (503) 229-6434.

(over)

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

FOR FURTHER INFORMATION:

Contact the person or division identified in the public notice by calling 229-5696 in the Portland area. To avoid long distance charges from other parts of the state, call 1-800-452-4011.

11/1/86

HOW TO COMMENT:

Public hearings will be held before a hearings officer on:

Monday, July 9, 1990	Tuesday, July 10, 1990
10:00 a.m.	10:00 a.m.
Lane County Courthouse	Dept. of Environmental Quality
South Harris Hall	Room 3A
125 E. 8th Avenue	811 S.W. Sixth Avenue
Eugene, Oregon	Portland, Oregon

Written comments are invited, and should be received by the Department at the following address no later than 5:00 pm July 10, 1990.

Department of Environmental Quality
Hazardous and Solid Waste Division
811 S. W. 6th Avenue
Portland, Oregon 97204

Attention: Jan Whitworth

RECY\YB9546D

Chapter 465

1989 EDITION

Hazardous Waste and Hazardous Materials I

CROSS REFERENCES

Environmental Quality Commission, duties and powers, 468.010 to 468.075

Pollution control, Ch. 468

Public health measures, toxic substances, 433.216

Radioactive waste, 469.530 to 469.559

Solid waste, Ch. 459

Transport of hazardous materials, regulation, 761.370 to 761.421

Volunteering assistance or advice related to cleanup of hazardous material, liability limitation, 30.490 to 39.497

465.200 to 465.420

Penalties for violation of 465.200 to 465.420, 466.995

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REDUCTION OF USE OF TOXIC SUBSTANCES AND HAZARDOUS WASTE GENERATION

465.003 Definitions for ORS 465.003 to 465.034. As used in ORS 465.003 to 465.034:

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

(2) "Conditionally exempt generator" means a generator who generates less than 2.2 pounds of acute hazardous waste as defined by 40 C.F.R. 261, or who generates less than 220 pounds of hazardous waste in one calendar month.

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

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

(5) "Facility" means all buildings, equipment, structures and other stationary items located on a single site or on contiguous or adjacent sites and owned or operated by the same person or by any person who controls, is controlled by or under common control with any person.

(6) "Fully regulated generator" means a generator who generates 2.2 pounds or more of acute hazardous waste as defined by 40 C.F.R. 261, or 2,200 pounds or more of hazardous waste in one calendar month.

(7) "Generator" means a person who, by virtue of ownership, management or control, is responsible for causing or allowing to be caused the creation of hazardous waste.

(8) "Hazardous waste" has the meaning given that term in ORS 466.005.

(9) "Large user" means a facility required to report under section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (P.L. 99-499).

(10) "Person" means individual, the United States, the state or a public or private corporation, local government unit, public agency, partnership, association, firm, trust, estate or any other legal entity.

(11) "Small-quantity generator" means a generator who generates between 220 and 2,200 pounds of hazardous waste in one calendar month.

(12) "Toxic substance" or "toxics" means any substance in a gaseous, liquid or solid state listed pursuant to Title III, Section 313 of the Superfund Amendments and Reauthorization Act of 1986, or any substance added by the commission under ORS 465.009. "Toxic substance" does not include a substance used as a pesticide or herbicide in routine commercial agricultural applications.

(13)(a) "Toxics use reduction" means in-plant changes in production or other processes or operations, products or raw materials that reduce, avoid or eliminate the use or production of toxic substances without creating substantial new risks to public health, safety and the environment, through the application of any of the following techniques:

(A) Input substitution, which refers to replacing a toxic substance or raw material used in a production or other process or operation with a nontoxic or less toxic substance;

(B) Product reformulation, which refers to substituting for an existing end product, an end product which is nontoxic or less toxic upon use, release or disposal;

(C) Production or other process or operation redesign or modifications:

(D) Production or other process or operation modernization, which refers to upgrading or replacing existing equipment and methods with other equipment and methods;

(E) Improved operation and maintenance controls of production or other process or operation equipment and methods, which refers to modifying or adding to existing equipment or methods including, but not limited to, techniques such as improved housekeeping practices, system adjustments, product and process inspections or production or other process or operation control equipment or methods; or

(F) Recycling, reuse or extended use of toxics by using equipment or methods that become an integral part of the production or other process or operation of concern, including but not limited to filtration and other methods.

(b) "Toxics use reduction" includes proportionate changes in the usage of a particular toxic substance by any of the methods set forth in paragraph (a) of this subsection as the usage of that toxic substance changes as a result of production changes or other business changes.

(14) "Toxics use" means use or production of a toxic substance.

(15) "Toxics user" means a large user, a fully regulated generator or a small-quantity generator.

(16)(a) "Waste reduction" means any recycling or other activity applied after hazardous waste is generated that is consistent with the general goal of reducing present and future threats to public health, safety and the environment and that results in:

(A) The reduction of total volume or quantity of hazardous waste generated that would otherwise be treated, stored or disposed of;

(B) The reduction of toxicity of hazardous waste that would otherwise be treated, stored or disposed of; or

(C) Both the reduction of total volume or quantity and the reduction of toxicity of hazardous waste.

(b) "Waste reduction" includes proportionate changes in the total volume, quantity or toxicity of a particular hazardous waste in accordance with paragraph (a) of this subsection as the generation of that waste changes as a result of production changes or other business changes.

(c) "Waste reduction" may include either onsite or offsite treatment where such treatment can be shown to confer a higher degree of protection of the public health, safety and the environment than other technically and economically practicable waste reduction alternatives. [1989 c.833 §2]

465.006 Policy. (1) In the interest of protecting the public health, safety and the environment, the Legislative Assembly declares that it is the policy of the State of Oregon to encourage reduction in the use of toxic substances and to reduce the generation of hazardous waste whenever technically and economically practicable, without shifting risks from one part of a process, environmental media or product to another. Priority shall be given to methods that reduce the amount of toxics used and, where that is not technically and economically practicable, methods that reduce the generation of hazardous waste.

(2) The Legislative Assembly finds that the best means to achieve the policy set forth in subsection (1) of this section is by:

(a) Providing toxics users and generators with technical assistance;

(b) Requiring toxics users to engage in comprehensive planning and develop measurable performance goals; and

(c) Monitoring the use of toxic substances and the generation of hazardous waste. [1989 c.833 §3]

465.009 Exemption of substance or waste by rule. The Environmental Quality Commission by rule may add or remove any toxic substance or hazardous waste from the provisions of ORS 465.003 to 465.034. [1989 c.833 §4]

465.010 [Amended by 1971 c.743 §371; repealed by 1989 c.846 §15]

465.012 Technical assistance to users and generators; priority; restrictions on enforcement resulting from technical assistance. (1) The Department of Environmental Quality shall provide technical assistance to toxics users and conditionally exempt generators. In identifying the users and generators to which the department shall give priority in providing technical assistance, the department shall consider at least the following:

(a) Amounts and toxicity of toxics used and amounts of hazardous waste disposed of, discharged and released;

(b) Potential for current and future toxics use reduction and hazardous waste reduction; and

(c) The toxics related exposures and risks posed to public health, safety and the environment.

(2) In providing technical assistance, the department shall give priority to assisting toxics users and conditionally exempt generators in developing and implementing an adequate toxics use reduction and hazardous waste reduction plan as established under ORS 465.015. The assistance may include but need not be limited to:

(a) Information clearinghouse activities;

(b) Telephone hotline assistance;

(c) Toxics use reduction and hazardous waste reduction training workshops;

(d) Establishing a technical publications library;

(e) The development of a system to evaluate the effectiveness of toxics use reduction and hazardous waste reduction measures;

(f) The development of a recognition program to publicly acknowledge toxics users and conditionally exempt generators who develop and implement successful toxics use reduction and hazardous waste reduction plans; and

(g) Direct onsite assistance to toxics users and conditionally exempt generators in developing the plans.

(3) The department shall:

(a) Coordinate its technical assistance efforts with industry trade associations and local colleges and universities as appropriate.

(b) Follow up with toxics users who receive technical assistance to determine whether the user or generator implemented a toxics use reduction and hazardous waste reduction plan.

(4) Technical assistance services provided under this section shall not result in inspections or other enforcement actions unless there is reasonable cause to believe there exists a clear and immediate danger to the public health and safety or to the environment. The commission may develop rules to carry out the intent of this subsection. [1989 c.833 §5]

Note: Section 6, chapter 833, Oregon Laws 1989, provides:

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Sec. 6. The department shall begin providing technical assistance under section 5 of this Act [465.012] on or before January 1, 1990. [1989 c.833 §6]

465.015 Guidelines for reduction plans; performance goals; rationale for goals; annual progress reports; modification of plans. (1) Not later than September 1, 1990, the commission shall establish guidelines for toxics use reduction and hazardous waste reduction plans. At a minimum, the guidelines shall include:

(a) A written policy articulating upper management and corporate support for the toxics use reduction and hazardous waste reduction plan and a commitment to implement plan goals.

(b) Plan scope and objectives, including the evaluation of technologies, procedures and personnel training programs to insure unnecessary toxic substances are not used and unnecessary waste is not generated. In addition to the goals required in subsection (2) of this section, specific goals may be set for toxics use reduction and hazardous waste reduction, based on a realistic assessment of what is technically and economically practicable.

(c) Internal analysis of toxic substance usage and hazardous waste streams, with periodic toxics use reduction and hazardous waste reduction assessments, to review individual processes or facilities and other activities where toxic substances are used and waste may be generated and identify opportunities to reduce or eliminate toxic substance usage and waste generation. Such assessments shall evaluate data on the types, amount and hazardous constituents of toxic substances used and waste generated, where and why those toxics were used and waste was generated within the production process or other operations, and potential toxics use reduction and hazardous waste reduction and recycling techniques applicable to those toxic substances and wastes.

(d) Toxics use and hazardous waste accounting systems that identify toxics use and waste management costs and factor in liability, compliance and oversight costs to the extent technically and economically practicable.

(e) Employee awareness and training programs, to involve employees in toxics use reduction and hazardous waste reduction planning and implementation to the maximum extent feasible.

(f) Institutionalization of the plan to insure an ongoing effort as demonstrated by incorporation of the plan into management practices and procedures.

(g) Implementation of technically and economically practicable toxics use reduction and hazardous waste reduction options, including a plan for implementation. This shall include a description of options considered and an explanation of why options considered were not implemented. The plan shall distinguish between toxics use reduction options and waste reduction options, and the analysis of options considered shall demonstrate that toxics use reduction options were given priority wherever technically and economically practicable.

(2) As part of each plan developed under ORS 465.018, a toxics user shall establish specific performance goals for the reduction of toxics and waste in the following categories:

(a) Any toxic substance used in quantities in excess of 10,000 pounds a year;

(b) Any toxic substance used in quantities in excess of 1,000 pounds a year that constitutes 10 percent or more of the total toxic substances used; and

(c) For fully regulated generators, any waste representing 10 percent or more by weight of the cumulative waste stream generated per year.

(3) Wherever technically and economically practicable, the specific performance goals established under subsection (2) of this section shall be expressed in numeric terms. If the establishment of numeric performance goals is not practicable, the performance goals shall include a clearly stated list of objectives designed to lead to the establishment of numeric goals as soon as is practicable.

(4) Each toxics user shall explain the rationale for each performance goal. The rationale for a particular performance goal shall address any impediments to toxics use reduction and hazardous waste reduction, including but not limited to the following:

(a) The availability of technically practicable toxics use reduction and hazardous waste reduction methods, including any anticipated changes in the future.

(b) The economic practicability of available toxics use reduction and hazardous waste reduction methods, including any anticipated changes in the future. Examples of situations where toxics use reduction or hazardous waste reduction may not be economically practicable include but are not limited to:

(A) For valid reasons of prioritization, a particular company has chosen to first address other more serious toxics use reduction or hazardous waste reduction concerns;

(B) Necessary steps to reduce toxics use and hazardous waste are likely to have sig-

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nificant adverse impacts on product quality; or

(C) Legal or contractual obligations interfere with the necessary steps that would lead to toxics use reduction or hazardous waste reduction.

(5) All toxics users shall complete annually a toxics use reduction and hazardous waste reduction progress report.

(6) An annual progress report shall:

(a) Analyze progress made, if any, in toxics use reduction and hazardous waste reduction, relative to each performance goal established under subsection (2) of this section; and

(b) Set forth amendments to the toxics use reduction and hazardous waste reduction plan and explain the need for the amendments.

(7) The commission by rule may provide for modifications for small-quantity generators related to the kind of information to be included in the plan. [1989 c.833 §7]

465.018 Time limitation for completion of plan; plan not public record; inspection of plan. (1) All large users and fully regulated generators shall complete a toxics use reduction and hazardous waste reduction plan on or before September 1, 1991, and all small-quantity generators shall complete a toxics use reduction and hazardous waste reduction plan on or before September 1, 1992. Upon completion of a plan, the user shall notify the Department of Environmental Quality in writing on a form supplied by the department.

(2) A facility required to complete a toxics use reduction and hazardous waste reduction plan under subsection (1) of this section may include as a preface to its initial plan:

(a) An explanation and documentation regarding toxics use reduction and hazardous waste reduction efforts completed or in progress before the first reporting date; and

(b) An explanation and documentation regarding impediments to toxics use reduction and hazardous waste reduction specific to the individual facility.

(3) The department shall consider information provided under subsection (2) of this section in any review of a facility plan under ORS 465.021.

(4) Except as provided in ORS 465.021, a toxics use reduction and hazardous waste reduction plan developed under this section shall be retained at the facility and is not a public record under ORS 192.410.

(5) For the purposes of this section and ORS 465.012 and 465.021, a toxics user shall permit the director or any designated employee of the director to inspect the toxics use reduction and hazardous waste reduction plan.

(6) A facility shall determine whether it is required to complete a plan under subsection (1) of this section based on whether its toxics use or waste generation results in the facility meeting the definition of toxics user as defined in ORS 465.003 for the calendar year ending December 31 of the year immediately preceding the September 1 reporting deadline. [1989 c.833 §8]

465.020 [Amended by 1979 c.284 §151; repealed by 1989 c.846 §15]

465.021 Review of plans; determination of inadequacies; revised plan or progress report; log of inadequacy findings; public inspection of log. (1) The Department of Environmental Quality may review a plan or an annual progress report to determine whether the plan or progress report is adequate according to the guidelines established under ORS 465.013. If a toxics user fails to complete an adequate plan or annual progress report as required under ORS 465.015 and 465.018, the department may notify the user of the inadequacy, identifying the specific deficiencies. The department also may specify a reasonable time frame, of not less than 90 days, within which the user shall submit a modified plan or progress report addressing the specified deficiencies. The department also may make technical assistance available to aid the user in modifying its plan or progress report.

(2) If the department determines that a modified plan or progress report submitted pursuant to subsection (1) of this section is inadequate, the department may, within its discretion, either require further modification or issue an administrative order pursuant to subsection (3) of this section.

(3) If after having received a list of specified deficiencies from the department, a toxics user fails to develop an adequate plan or progress report within a time frame specified pursuant to subsection (1) or (2) of this section, the department may order such toxics user to submit an adequate plan or progress report within a reasonable time frame of not less than 90 days. If the toxics user fails to develop an adequate plan or progress report within the time frame specified, the department shall conduct a public hearing on the plan or progress report. Except as provided under ORS 465.031, in any hearing under this section the relevant plan or progress report shall be considered a public record as defined in ORS 192.410.

(4) In reviewing the adequacy of any plan or progress report, the department shall base

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its determination solely on whether the plan or progress report is complete and prepared in accordance with ORS 465.015.

(5) The department shall maintain a log of each plan or progress report it reviews, a list of all plans or progress reports that have been found inadequate under subsection (3) of this section and descriptions of corrective actions taken. This information shall be available to the public at the department's office. [1989 c.833 §9]

465.024 Report of quantities of toxics generated; narrative summary; inspection of progress report. (1) From each annual progress report, the toxics user shall report to the Department of Environmental Quality the quantities of toxics used that are within the categories set forth in ORS 465.015 (2).

(2) From each annual progress report, the toxics user shall report to the department the quantities of hazardous wastes generated that are within the categories set forth in ORS 465.015 (2).

(3) The report shall include a narrative summary explaining the data. The narrative summary may include:

(a) A description of goals and progress made in reducing the use of the toxic substance or generation of hazardous waste; and

(b) A description of any impediments to reducing the use of the toxic substance or generation of hazardous waste.

(4) The Environmental Quality Commission, by rule, shall develop uniform reporting requirements for the data required under subsections (1) and (2) of this section.

(5) Except for the information reported to the department under this section, the annual progress report shall be retained at the facility and shall not be considered a public record under ORS 192.410. However, the user shall permit any officer, employee or representative of the department at all reasonable times to have access to the annual progress report. [1989 c.833 §10]

Note: Section 11, chapter 833, Oregon Laws 1989, provides:

Sec. 11. Large users and fully regulated generators shall complete the first annual progress report required under section 7 of this Act [465.015] on or before September 1, 1992. Small-quantity generators shall complete the first annual progress report required under section 7 of this Act on or before September 1, 1993. [1989 c.833 §11]

465.027 Contract for assistance with higher education institution. Subject to available funding, the Department of Environmental Quality shall contract with an established institution of higher education to assist the department in carrying out the provisions of ORS 465.003 to 465.034. The assistance shall emphasize strategies to encourage toxics use reduction and hazardous waste reduction and shall provide assistance to facilities under ORS 465.003 to 465.034. The assistance may include but need not be limited to:

(1) Engineering internships;

(2) Engineering curriculum development;

(3) Applied toxics use reduction and hazardous waste reduction research; and

(4) Engineering assistance to users and generators. [1989 c.833 §12]

Note. Section 13, chapter 833, Oregon Laws 1989, provides:

Sec. 13. (1) In order to assist in establishing rules related to toxics use reduction and hazardous waste reduction, the Department of Environmental Quality shall establish an advisory committee. The advisory committee shall consist of representatives of the public and affected industries.

(2) The advisory committee shall act in an advisory capacity to the department in any matter related to toxics use reduction and hazardous waste reduction. The advisory committee may provide comments regarding data collection, plan format and content. In addition, the committee shall identify any additional data necessary to improve the technical assistance process, to develop plans and to aid in enforcement of plans.

(3) The committee also may identify specific chemicals that present the greatest hazard to the public health, safety and the environment in order that the department may focus technical assistance, research and development efforts to facilitate accelerated reduction in the use of such chemicals.

(4) The committee shall make recommendations to the department to increase the coordination of requirements of all state and federal toxics use and hazardous waste programs, including but not limited to the Clean Air Act, the Federal Water Pollution Control Act, the Toxic Substances Control Act, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation, and Liability Act, and any amendments thereto, Title III of the Superfund Amendments and Reauthorization Act of 1986 and amendments thereto, the Community Right to Know and Protection Act.

(5) The committee shall make recommendations under this section on or before January 1, 1991. [1989 c.833 §13]

465.030 [Repealed by 1989 c.846 §15]

465.031 Classification of plan or progress report as confidential; trade secrets; restricted use of confidential information. (1) Upon a showing satisfactory to the director by any person that a plan or annual progress report developed under ORS 465.015 or 465.018, or any portion thereof, if made public, would divulge methods, processes or other information entitled to protection as trade secrets, as defined under ORS 192.501, of such person, the director shall classify as confidential such plan or annual progress report, or portion thereof.

(2) To the extent that any plan or annual progress report under subsection (1) of this section, or any portion thereof, would otherwise qualify as a trade secret under ORS

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192.501, no action taken by the director or any authorized employee of the department in inspecting or reviewing such information shall affect its status as a trade secret.

(3) Any information classified by the director as confidential under subsection (1) of this section shall not be made a part of any public record, used in any public hearing or disclosed to any party outside of the department unless a circuit court determines that evidence is necessary to the determination of an issue or issues being decided at the public hearing. [1989 c.833 §14]

Note: Section 15, chapter 833, Oregon Laws 1989, provides:

Sec. 15. On or before January 1, 1991, and January 1, 1993, the Environmental Quality Commission shall report to the Legislative Assembly on the status of implementing sections 2 to 16 of this Act [465.003 to 465.034]. This report shall include information regarding:

(1) The status of the technical assistance program;

(2) Progress toward reducing the quantities of toxic substances used and hazardous wastes generated in Oregon; and

(3) An analysis and recommendations for changes to the program including but not limited to the need for any additional enforcement provisions. [1989 c.833 §15]

465.034 Application of ORS 465.003 to 465.031. Notwithstanding any other provision of ORS 465.003 to 465.031, nothing in chapter 833, Oregon Laws 1989, shall be considered to apply to any hazardous wastes that become subject to regulation solely as a result of remedial activities taken in response to environmental contamination. [1989 c.833 §16]

Note: The Legislative Counsel has not, pursuant to 173.160, undertaken to substitute specific ORS references for the words "this Act" in 465.034. Chapter 833, Oregon Laws 1989, enacted into law and amended the ORS sections which may be found by referring to the 1989 Comparative Section Table located in volume 15 of Oregon Revised Statutes (1989 Edition).

465.037 Short Title. ORS 465.003 to 465.034 shall be known as the Toxics Use Reduction and Hazardous Waste Reduction Act. [1989 c.833 §1]

465.040 [Amended by 1971 c.743 §372; repealed by 1989 c.846 §15]

465.050 [Amended by 1971 c.743 §373; repealed by 1989 c.846 §15]

465.060 [Repealed by 1989 c.846 §15]

465.070 [1989 Repealed by 1989 c.846 §15]

465.090 [Amended by 1971 c.743 §374; repealed by 1989 c.846 §15]

465.100 [1977 c.550 §2; 1985 c.728 §83; 1987 c.914 §26; renumbered 464.430 in 1987]

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NEIL GOLDSCHMIDT
GOVERNOR

Environmental Quality Commission

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

REQUEST FOR EQC ACTION

Meeting Date: May 25, 1990
Agenda Item: A - 4(a)
Division: Water Quality
Section: Groundwater

SUBJECT:

Groundwater: Proposed Adoption of Interim Numerical Standards for Maximum Measurable Levels of Contaminants

PURPOSE:

The Groundwater Quality Protection Act of 1989 contained in House Bill 3515, required standards to be adopted which would trigger the designation of groundwater management areas. These rules would set forth the required standards.

ACTION REQUESTED:

___ Work Session Discussion
- ___ General Program Background
- ___ Potential Strategy, Policy, or Rules
- ___ Agenda Item ___ for Current Meeting
- ___ Other: (specify)

___ Authorize Rulemaking Hearing
_x_ Adopt Rules

Proposed Rules	Attachment A
Statement of Need	Attachment B
Land Use Compatibility Statement	Attachment C
Fiscal and Economic Impact Statement	Attachment B
Public Notice	Attachment D

___ Issue a Contested Case Order
___ Approve a Stipulated Order
___ Enter an Order

Proposed Order	Attachment ___

___ Approve Department Recommendation

___ Variance Request	Attachment ___
___ Exception to Rule	Attachment ___
___ Informational Report	Attachment ___
___ Other: (specify)	Attachment ___

DESCRIPTION OF REQUESTED ACTION:

The requested action is the result of the adoption of the Groundwater Quality Protection Act of 1989. Oregon Revised Statute (ORS) 468.694 requires that established federal standards be adopted as interim standards for Maximum Measurable Levels of Contaminants in Groundwater. The interim standards are to apply to regional nonpoint source groundwater contamination problems only. They will not affect how the Department of Environmental Quality (Department) deals with point sources.

The Act defines a federal standard as a maximum contaminant level, a national primary drinking water regulation or an interim drinking water regulation adopted by the Administrator of the U.S. Environmental Protection Agency pursuant to the federal Safe Drinking Water Act, as amended, 42 U.S.C. 300g.-1.

AUTHORITY/NEED FOR ACTION:

x Required by Statute: ORS 468.694	Attachment E
Effective Date: July 24, 1989	
___ Statutory Authority: _____	Attachment ___
___ Pursuant to Rule: _____	Attachment ___
___ Pursuant to Federal Law/Rule: _____	Attachment ___
___ Other: House Bill 3515 (Groundwater Part)	Attachment F

x Time Constraints: (explain)

House Bill 3515 required the Environmental Quality Commission (EQC, Commission) to adopt interim standards for Maximum Measurable Levels of Contaminants in Groundwater within 90 days of the effective date of the Act which was July 24, 1989. Temporary rules were adopted by the Commission on October 20, 1989. The temporary rules expired on April 18, 1990 and must be replaced by permanent rules. The proposed permanent rules are identical to the temporary rules which expired.

DEVELOPMENTAL BACKGROUND:

___	Advisory Committee Report/Recommendation	Attachment ___
_x_	Hearing Officer's Report/Recommendations	Attachment G
_x_	Response to Testimony/Comments	Attachment G
___	Prior EQC Agenda Items: (list)	Attachment ___
___	Other Related Reports/Rules/Statutes:	Attachment ___
_x_	Supplemental Background Information:	
	-Summary of House Bill 3515, Sections 17 through 66	Attachment H
	-House Bill 3515, Sections 17 through 66	Attachment F

REGULATED/AFFECTED COMMUNITY CONSTRAINTS/CONSIDERATIONS:

The adoption of the Groundwater Quality Protection Act of 1989 was the result of a long and thorough process that involved industrial, agricultural and environmental organizations, interested citizens, state agencies, legislators, and the Governor. It was a consensus bill which had broad support in the legislature.

The interim standards are to be applied in lieu of the final standards for Maximum Measurable Levels for Contaminants in Groundwater until the Commission adopts such final standards by rule. The Department shall use these standards to declare a groundwater management area when monitoring and assessment activities indicate that suspected nonpoint source activities have resulted in:

a. Nitrate contaminants at levels greater than 70 percent of the Maximum Measurable Levels for Contaminants in Groundwater, except that it shall be 100 percent for the first two years after the effective date of the Act.

b. Any other contaminants at levels greater than 50 percent of the Maximum Measurable Levels for Contaminants in Groundwater.

Nonpoint source activities are those that result in the diffuse run-off, seepage, or leaching of pollutants to waters of the state, including groundwater. Common nonpoint source

pollutants include soils eroded from farms, forestry operations, and construction sites; oils and metals washed from roads; fertilizers and pesticides from croplands; and bacteria and nutrients from animal waste and domestic gardening and landscaping.

No other use of the interim standards is required by House Bill 3515.

A public hearing was held on May 3, 1990 on the proposed rule adoption. Notification was sent to over 700 parties currently on the groundwater interested persons mailing list. No testimony was received at the public hearing. Written testimony was submitted by one person. That testimony addressed sewer construction issues in the Santa Clara/River Road area, and was not pertinent to the proposed interim standards.

PROGRAM CONSIDERATIONS:

The adoption of interim standards will allow the Department to continue the implementation of the Groundwater Quality Protection Act prior to the adoption of the final standards. Because the Act specifies the procedure and time frame within which these final standards are to be developed and adopted, it may take 10 months or longer before such final standards become rule.

As a result of statutory requirements for the final standards, it is extremely unlikely that the final standards will not be as stringent as the interim standards. Therefore, areas that are designated as groundwater management areas under the interim standards are likely to remain so under the final standards. The adoption of the interim standards will be beneficial in allowing the Department to address regional groundwater contamination problems under the provisions of the Act much earlier, and will be consistent with legislative expectations.

The adoption of the interim standards will not directly result in excessive resource demands for the Department.

ALTERNATIVES CONSIDERED BY THE DEPARTMENT:

The Department considered not readopting the interim standards, and instead, waiting until the final standards are proposed for adoption. However, the Department received an informal recommendation from the Attorney General's Office that the law required the Department to have interim standards in effect until the final standards for maximum measurable levels of contaminants in groundwater are adopted.

DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:

The Department recommends that the Commission adopt the rule in Attachment A establishing interim standards for Maximum Measurable Levels of Contaminants in Groundwater.

This action is being recommended as the only feasible way of meeting the statutory requirements, and will be without negative consequence.

CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE POLICY:

The adoption of the proposed interim standards would be the direct implementation of legislative policy for groundwater quality management. It is also consistent with the existing and long held policy of adopting numerical water quality standards to ensure the protection of the beneficial uses of the waters of the state.

The adoption of these interim standards should in no way be construed as being in conflict with antidegradation policies and standards which are established in statute or rule and would apply to groundwater. These interim standards are meant to work in conjunction with existing antidegradation requirements to ensure a more effective management of the groundwater resource.

INTENDED FOLLOWUP ACTIONS:

As required by the Act, the Strategic Water Management Group (SWMG[1]) has appointed a technical advisory committee to develop criteria and methods to be recommended to the EQC for use in the adoption of final standards for Maximum Measurable Levels of Contaminants in Groundwater. The committee's recommendations must be delivered within one year of the effective date of the Act; rulemaking must be initiated within 90 days after the recommendations are delivered; and final rules must be adopted within 180 days after rulemaking is initiated. When the final standards are proposed the interim standards will be repealed.

Approved:

Section: _____

Division: _____

Director: _____

Report Prepared By: Greg Pettit

Phone: 229-6065

Date Prepared: 5-9-90

(GAP:kjc)
(PM\WJ2292)
(5/9/90)

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[1] SWMG is a legislatively established committee chaired by the Governor's Assistant for Natural Resources, and its membership includes the directors of the state's natural resource agencies. SWMG is charged with the coordination of the state's natural resource programs.

The following is the proposed rule establishing interim standards for maximum measurable levels of contaminants in groundwater. The language is the same as the temporary rule language for interim standards for maximum, measurable levels of contaminants in groundwater which expires April 18, 1990.

NOTE:

Underlined material is to be inserted into the rules.

INTERIM STANDARDS FOR MAXIMUM MEASURABLE LEVELS OF CONTAMINANTS IN GROUNDWATER TO BE USED IN THE DESIGNATION OF A GROUNDWATER MANAGEMENT AREA

340-40-090

The levels contained in Tables 4, 5, and 6 of this Division are the interim standards for maximum measurable levels of contaminants in groundwater to be used in the designation of a groundwater management area. These levels shall be used in all actions conducted by the Department where the use of maximum measurable levels for contaminants in groundwater is required.

TABLE 4

Interim Standards for Maximum Measurable Levels of Contaminants in Groundwater:[1,2]

Inorganic Contaminants	Interim Standard (mg/L)
Arsenic	0.05
Barium	1
Cadmium	0.010
Chromium	0.05
Fluoride	4.0
Lead	0.05
Mercury	0.002
Nitrate-N	10
Selenium	0.01
Silver	0.05

[1] All reference levels are for total (unfiltered) concentrations unless otherwise specified by the Department.

[2] The source of all standards listed is 40 CFR Part 141.

TABLE 5

Interim Standards for Maximum Measurable Levels of Contaminants in Groundwater (Continued):[1,2]

Organic Contaminants	Interim Standard (mg/L)
Benzene	0.005
Carbon Tetrachloride	0.005
p-Dichlorobenzene	0.075
1,2-Dichloroethane	0.005
1,1-Dichloroethylene	0.007
1,1,1-Trichloroethane	0.20
Trichloroethylene	0.005
Total Trihalomethanes (the sum of concentrations bromodichloromethane, dibromochloromethane, tribromomethane (bromoform), and trichloromethane (chloroform))	0.10
Vinyl Chloride	0.002
2,4-D	0.1
Endrin	0.0002
Lindane	0.004
Methoxychlor	0.1
Toxaphene	0.005
2,4,5-TP Silvex	0.01

[1] All reference levels are for total (unfiltered) concentrations unless otherwise specified by the Department.

[2] The source of all strandards listed is 40 CF$ Part 141.

TABLE 6

Interim Standards for Maximum
Measureable Levels of Contaminants in Groundwater:[1]

Radioactive Substances, Microbiological and Turbidity

Contaminant	Interim Standard
Turbidity	1 T U
Coliform Bacteria	< 1/100 mL
Radioactive Substances	
Gross Alpha[2]	15 pCi/l
Combined Radium 226 and 228	5 pCi/l
Gross Beta	50 pCi/l
I - 131	3 pCi/l
Sr - 90	8 pCi/l
Tritium	20,000 pCi/l

[1] The source of all standards listed is 40 CFR Part 141.

[2] Including Radium 226 but excluding Radon and Uranium.

STATEMENT OF NEED AND FISCAL IMPACT ON PROPOSED RULE FOR INTERIM STANDARDS FOR MAXIMUM MEASURABLE LEVELS OF CONTAMINANTS IN GROUNDWATER

1. Citation of statutory authority: Section 26, Chapter 833, Oregon Laws 1989. This law required that Environmental Quality Commission establish by rule Interim Numerical Standards for Maximum Measurable levels of Contaminants in Groundwater within 90 days of the effective date of the Groundwater Quality Protection Act of 1989 (July 24, 1989). The law specified that the values adopted be the same as standards (Maximum Contaminant Levels) adopted by the U.S. Environmental Protection Agency pursuant to the federal Safe Drinking Water Act, as amended, 42 U.S.C. 300g-1. As required the Environmental Quality Commission adopted such numbers as Interim Standards for Maximum Measurable Levels of Contaminants in Groundwater on October 20, 1989.

2. Need for rule: In order to expedite the process and comply with the 90 day requirement, the Interim Standards were adopted as temporary rules. Temporary rules can only remain in effect for 180 days. The Interim Standards adopted expire 180 days after their adoption date (October 20,1989). In order to comply with the law and have Interim Standards, they must be readopted as permanent rules by the Environmental Quality Commission.

3. Principle documents relied upon and considered in the need for the rule and in preparing the rules were:

   a. Sections 17 through 66, Chapter 833, Oregon Laws 1989
   b. Oregon Revised Statute 183.335
   c. Code of Federal Regulations 40 CFR Part 141--National Primary Drinking Water Regulations

4. Fiscal and Economic Impact: Sections 24 and 25, Chapter 833, Oregon Laws 1989 contain the process and requirements for the establishment of Final Standards for Maximum Measurable Levels of Contaminants in Groundwater. As required by the above, a technical advisory committee is currently developing criteria and methods to be recommended to the Environmental Quality Commission for use in the adoption of Final Standards. Those recommendations must be completed by July 24, 1990. The Environmental Quality Commission must initiate rulemaking within 90 days of receiving the recommendations, and adopt the Final Standards within 180 days of that. As a result of these requirements, the Interim Standards will be replaced by Final Standards by April 20, 1991.

Maximum Measurable Levels for Contaminants in Groundwater are currently only used for the designation of Groundwater Management Areas. This occurs wher the Department of Environmental Quality or the Health Division finds through statewide monitoring and

assessment activities contaminant levels, resulting at least in part from nonpoint source activities, which exceed 50% (70% for nitrates) of the Maximum Measurable Levels of Contaminants in Groundwater.

The process for declaring such areas is not clearly specified in the law. The Department intends to develop and propose administrative rules for the process of making such a declaration. Two areas of the state, northeastern Malhuer County and northern Umatilla and Morrow Counties have been informally declared as groundwater management areas under the temporary rules. They will be formally declared as such areas when administrative rules are adopted. This will be after the adoption of the Final Standards for Maximum Measurable Levels of Contaminants in Groundwater.

Based upon the information available to the Department at this time, it is the conclusion of the Department that no new Groundwater Management areas will be declared based upon the adoption of the proposed Interim Standards for Maximum Measurable Levels of Contaminants in Groundwater. Therefore, no significant economic impact on other state agencies, municipalities, small businesses, or other businesses resulting from the adoption of the proposed rules is expected.

LAND USE CONSISTENCY STATEMENT

The Department has concluded that the proposal conforms with statewide planning goals and guidelines.

With regard to Goal 6, (air, water, and land resources quality), the proposed rules are intended to improve and maintain groundwater quality in the state and are considered to be consistent with the goal. The proposed rule does not appear to conflict with the other goals.

PM\WJ2249

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

Hearing Date: May 3,1990
Comments Due: May 7,1990
5:00 p.m.

WHO IS AFFECTED: All businesses, residents, industries, and local governments in the State of Oregon.

WHAT IS PROPOSED: The Department proposes to adopt permanent rules (OAR 340-40-090) for interim standards for maximum measurable levels of contaminants in groundwater.

WHAT ARE THE HIGHLIGHTS: On July 24, 1989, the Governor signed into law House Bill 3515. Sections 17 through 66 of the Bill contained the Groundwater Quality Protection Act of 1989. Section 26 of the Act required the Environmental Quality Commission to adopt interim standards for maximum measurable levels of contaminants in groundwater within 90 days of the effective date of the Act. The Act specifies that the standards adopted shall be the same as adopted federal standards (Maximum Contaminant Levels) established under the federal Safe Drinking Water Act.

On October 20, 1989 the Environmental Quality Commission adopted temporary rules establishing interim standards for maximum measurable levels of contaminants in groundwater as required by the above. The temporary rules expire on April 18, 1990 and the interim standards must be readopted as a permanent rule to replace them.

Under the provisions of Sections 24 and 25 of the Groundwater Quality Protection Act of 1989, <u>final</u> standards for maximum measurable levels of contaminants in groundwater must be adopted by the Commission no later than April 20, 1991.

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

11/1/86

FOR FURTHER INFORMATION:

Contact the person or division identified in the public notice by calling 229-5696 in the Portland area. To avoid long distance charges from other parts of the state, call 1-800-452-4011.

Maximum measurable levels of contaminants in groundwater are used to trigger the designation of groundwater management areas. When the Department of Environmental Quality or the Health Division find groundwater contaminants resulting at least in part from nonpoint sources, and at levels exceeding 50% (70% for nitrates) of the maximum measurable levels, they shall declare a groundwater management area.

HOW TO COMMENT:

Hearing to be held: Thursday, May 3, 1990
Time: 1:00 p.m.
Location: Oregon Department of
Environmental quality
811 S.W. 6th Ave.,
Conference Room 3A,
Portland, Oregon

A Department staff member will be appointed to preside over and conduct the hearing.

Interested persons may comment on the proposed rules orally or in writing at the hearing. Written comments received by **5:00 p.m., May 7, 1990**, will also be included in the hearing record. Written comments should be sent to and copies of the proposed rulemaking may be obtained from:

The Department of Environmental Quality
811 S.W. 6th Ave.
Portland OR 97204
Attn: Greg Pettit (503)229-6065

WHAT IS THE NEXT STEP:

After the public testimony has been received and evaluated, the proposed rule amendments will be revised as appropriate, and will be presented to the Environmental Quality Commission for their consideration. The Commission may adopt the proposed rule amendments, adopt modified rule amendments, or take no action at all.

GW\WC6404 (4/9/90)

ficial uses so that the state may continue to provide for whatever beneficial uses the natural water quality allows. [1989 c.833 §19]

Note: See note under 468.691.

468.694 Ground water contaminants; maximum levels; establishing; rules. (1) Within 90 days after receiving the recommendations of the technical advisory committee under ORS 536.137, the Environmental Quality Commission shall begin rulemaking to first adopt final rules establishing maximum measurable levels for contaminants in ground water. The commission shall adopt the final rules not later than 180 days after the commission provides notice under ORS 183.335.

(2) The adoption or failure to adopt a rule establishing a maximum measurable level for a contaminant under subsection (1) of this section shall not alone be construed to require the imposition of restrictions on the use of fertilizers under ORS 633.310 to 633.495 or the use of pesticides under ORS chapter 634. [1989 c.833 §25]

Note: See note under 468.691.

Note: Section 26, chapter 833, Oregon Laws 1989, provides:

Sec. 26. (1) Within 90 days after the effective date of this Act [July 24, 1989], the Environmental Quality Commission shall establish by rule interim numerical standards for maximum measurable levels of contaminants in ground water. The interim numerical standards shall be applied in lieu of maximum measurable levels for contaminants in ground water under section 25 of this Act [468.694] until the commission by rule adopts such levels under section 25 of this Act. The process for establishing interim numerical standards shall be as follows:

(a) If a federal standard for a substance has been adopted by federal regulation, the commission shall adopt the federal standard.

(b) If a federal standard for a substance has not been adopted by federal regulation, but one or more federal standards have been established by methods other than by adoption of a federal regulation, the commission shall adopt the most recently established federal standard as the numerical standard.

(c) If a federal regulation has not been established either by adoption of a federal regulation or by any other method, the commission shall request the U. S. Environmental Protection Agency to establish a federal standard for the substance, either by adoption of a federal regulation, or by other method.

(2) As used in this section "federal standard" means a maximum contaminant level, a national primary drinking water regulation or an interim drinking water regulation adopted by the Administrator of the U.S. Environmental Protection Agency pursuant to the federal Safe Drinking Water Act, as amended, 42 U.S.C. 300g-1. [1989 c.833 §26]

468.695 Strategic Water Management Group; staffing. The Department of Environmental Quality shall provide staff for project oversight and the day-to-day operation of the Strategic Water Management Group for those activities authorized under ORS 468.694 and 536.125 to 536.169, including scheduling meetings, providing public notice of meetings and other group activities and keeping records of group activities. [1989 c.833 §27]

Note: See note under 468.691.

468.696 Declaration of area of ground water concern. (1) If, as a result of its state-wide monitoring and assessment activities under ORS 468.699, the Department of Environmental Quality confirms the presence in ground water of contaminants suspected to be the result, at least in part, of nonpoint source activities, the department shall declare an area of ground water concern. The declaration shall identify the substances confirmed to be in the ground water and all ground water aquifers that may be affected.

(2) Before declaring an area of ground water concern, the agency making the declaration shall have a laboratory confirm the results that would cause the agency to make the declaration. [1989 c.833 §§31, 33]

Note: See note under 468.691.

468.698 Declaration of ground water management area; standards. (1) The Department of Environmental Quality shall declare a ground water management area if, as a result of information provided to the department or from its state-wide monitoring and assessment activities under ORS 468.699, the department confirms that, as a result of suspected nonpoint source activities, there is present in the ground water:

(a) Nitrate contaminants at levels greater than 70 percent of the levels established pursuant to ORS 468.694; or

(b) Any other contaminants at levels greater than 50 percent of the levels established pursuant to ORS 468.694.

(2) A declaration under subsection (1) of this section shall identify the substances detected in the ground water and all ground water aquifers that may be affected.

(3) Before declaring a ground water management area under subsections (1) and (2) of this section, the agency shall have a second laboratory confirm the results that cause the agency to make the declaration. [1989 c.833 §§36, 37]

Note: See note under 468.691.

Note: Section 38, chapter 833, Oregon Laws 1989, provides:

Sec. 38. Notwithstanding the requirements of section 36 of this Act [468.698], for two years after the effective date of this Act [July 24, 1989], a ground water management area shall not be established on the basis of excessive nitrate levels unless levels of nitrates in ground water are determined to exceed 100 percent of the levels established pursuant to section 25 of this Act [468.694]. [1989 c.833 §38]

468.699 Ground water monitoring and assessment. (1) In cooperation with the Water Resources Department, the Depart-

HOUSE BILL 3515

SECTIONS 17 THROUGH 66

GROUNDWATER PROTECTION ACT OF 1989

SECTION 17. As used in sections 17 to 44 of this Act:

(1) "Area of ground water concern" means an area of the state subject to a declaration by the Department of Environmental Quality under section 31 of this Act or the Health Division under section 32 of this Act.

(2) "Contaminant" means any chemical, ion, radionuclide, synthetic organic compound, microorganism, waste or other substance that does not occur naturally in ground water or that occurs naturally but at a lower concentration.

(3) "Ground water management area" means an area in which contaminants in the ground water have exceeded the levels established under section 25 of this Act, and the affected area is subject to a declaration under section 36 of this Act.

(4) "Fertilizer" has the meaning given that term in ORS 633.310.

(5) "Group" means the Strategic Water Management Group.

(6) "Pesticide" has the meaning given that term in ORS 634.006.

SECTION 18. The Legislative Assembly declares that it is the goal of the people of the State of Oregon to prevent contamination of Oregon's ground water resource while striving to conserve and restore this resource and to maintain the high quality of Oregon's ground water resource for present and future uses.

SECTION 19. In order to achieve the goal set forth in section 18 of this Act, the Legislative Assembly establishes the following policies to control the management and use of the ground water resource of this state and to guide any activity that may affect the ground water resource of Oregon:

(1) Public education programs and research and demonstration projects shall be established in order to increase the awareness of the citizens of this state of the vulnerability of ground water to contamination and ways to protect this important resource.

(2) All state agencies' rules and programs affecting ground water shall be consistent with the overall intent of the goal set forth in section 2 of this Act.

(3) State-wide programs to identify and characterize ground water quality shall be conducted.

(4) Programs to prevent ground water quality degradation through the use of the best practicable management practices shall be established.

(5) Ground water contamination levels shall be used to trigger specific governmental actions designed to prevent those levels from being exceeded or to restore ground water quality to at least those levels.

(6) All ground water of the state shall be protected for both existing and future beneficial uses so that the state may continue to provide for whatever beneficial uses the natural water quality allows.

SECTION 20. (1) The Strategic Water Management Group shall implement the following ground water resource protection strategy:

(a) Coordinate projects approved by the group with activities of other agencies.

(b) Develop programs designed to reduce impacts on ground water from:

(A) Commercial and industrial activities;

(B) Commercial and residential use of fertilizers and pesticides;

(C) Residential and sewage treatment activities; and

(D) Any other activity that may result in contaminants entering the ground water.

(c) Provide educational and informational materials to promote public awareness and involvement in the protection, conservation and restoration of Oregon's ground water resource. Public information materials shall be designed to inform the general public about the nature and extent of ground water contamination, alternatives to practices that contaminate ground water and the effects of human activities on ground water quality. In addition, educational programs shall be designed for specific segments of the population that may have specific impacts on the ground water resource.

(d) Coordinate the development of local ground water protection programs, including but not limited to local well head protection programs.

(e) Award grants for the implementation of projects approved under the criteria established under section 22 of this 1989 Act.

(f) Develop and maintain a centralized repository for information about ground water, including but not limited to:

(A) Hydrogeologic characterizations;

(B) Results of local and state-wide monitoring or testing of ground water;

(C) Data obtained from ground water quality protection research or development projects; and

(D) Alternative residential, industrial and agricultural practices that are considered best practicable management practices for ground water quality protection.

(g) Identify research or information about ground water that needs to be conducted or made

available.

(h) Cooperate with appropriate federal entities to identify the needs and interests of the State of Oregon so that federal plans and project schedules relating to the protection the ground water resource incorporate the state's intent to the fullest extent practicable.

(i) Aid in the development of voluntary programs to reduce the quantity of hazardous or toxic waste generated in order to reduce the risk of ground water contamination from hazardous or toxic waste.

(2) To aid and advise the Strategic Water Management Group in the performance of its functions, the group may establish such advisory and technical committees as the group considers necessary. These committees may be continuing or temporary. The Strategic Water Management Group shall determine the representation, membership, terms and organization of the committees and shall appoint their members. The chairperson of the Strategic Water Management Group shall be an ex officio member of each committee.

SECTION 21. (1) Any person, state agency, political subdivision of this state or ground water management committee organized under section 35 or 40 of this 1989 Act may submit to the Strategic Water Management Group a request for funding, advice or assistance for a research or development project related to ground water quality as it relates to Oregon's ground water resource.

(2) The request under subsection (1) of this section shall be filed in the manner, be in the form and contain the information required by the Strategic Water Management Group. The requester may submit the request either to the group or to a ground water management committee organized under section 35 or 40 of this 1989 Act.

(3) The Strategic Water Management Group shall approve only those requests that meet the criteria established by the group under section 22 of this 1989 Act.

SECTION 22. (1) Of the moneys available to the Strategic Water Management Group to award as grants under section 21 of this 1989 Act, not more than one-third shall be awarded for funding of projects directly related to issues pertaining to a ground water management area.

(2) The Strategic Water Management Group may award grants for the following purposes:

(a) Research in areas related to ground water including but not limited to hydrogeology, ground water quality, alternative residential, industrial and agricultural practices;

(b) Demonstration projects related to ground water including but not limited to hydrogeology, ground water quality, alternative residential, industrial and agricultural practices;

(c) Educational programs that help attain the goal set forth in section 18 of this 1989 Act; and

(d) Incentives to persons who implement innovative alternative practices that demonstrate increased protection of the ground water resource of Oregon.

(3) Funding priority shall be given to proposals that show promise of preventing or reducing ground water contamination caused by nonpoint source activities.

(4) In awarding grants for research under subsection (2) of this section, the Strategic Water Management Group shall specify that not more than 10 percent of the grant may be used to pay indirect costs. The exact amount of a grant that may be used by an institution for such costs may be determined by the group.

(5) In accordance with the applicable provisions of ORS 183.310 to 183.550, the Strategic Water Management Group shall adopt by rule guidelines and criteria for awarding grants under this section.

SECTION 23. Sections 20, 21, 22 and 24 of this Act are added to and made a part of ORS

536.100 to 536.150.

SECTION 24. (1) Not later than 60 days after the effective date of this 1989 Act, the Strategic Water Management Group shall appoint a nine-member technical advisory committee to develop criteria and a method for the Environmental Quality Commission to apply in adopting by rule maximum measurable levels of contaminants in ground water. The technical advisory committee shall recommend criteria and a method for the development of standards that are protective of public health and the environment. If a federal standard exists, the method shall provide that the commission shall first consider the federal standard, and if the commission does not adopt the federal standard, the method shall require the commission to give a scientifically valid reason for not concurring with the federal standard. As used in this subsection, "federal standard" means a maximum contaminant level, a national primary drinking water regulation or an interim drinking water regulation adopted by the Administrator of the U.S. Environmental Protection Agency pursuant to the federal Safe Drinking Water Act, as amended, 42 U.S.C. 300g-1.

(2) The technical advisory committee appointed under subsection (1) of this section shall be comprised of:

(a) A toxicologist;

(b) A health professional;

(c) A water purveyor;

(d) A biologist; and

(e) Technically capable members of the public representing the following groups:

(A) Citizens;

(B) Local governments;

(C) Environmental organizations;

(D) Industrial organizations; and

(E) Agricultural organizations.

(3) The technical advisory committee may appoint individuals or committees to assist in development of the criteria and maximum measurable levels of contaminants in ground water. An individual or committee appointed by the committee under this subsection shall serve in an advisory capacity only.

(4) The technical advisory committee shall complete its initial development of criteria and methods within one year after the effective date of this 1989 Act.

SECTION 25. (1) Within 90 days after receiving the recommendations of the technical advisory committee under section 24 of this Act, the Environmental Quality Commission shall begin rulemaking to first adopt final rules establishing maximum measurable levels for contaminants in ground water. The commission shall adopt the final rules not later than 180 days after the commission provides notice under ORS 183.335.

(2) The adoption or failure to adopt a rule establishing a maximum measurable level for a contaminant under subsection (1) of this section shall not alone be construed to require the imposition of restrictions on the use of fertilizers under ORS 633.310 to 633.495 or the use of pesticides under ORS chapter 634.

SECTION 26. (1) Within 90 days after the effective date of this Act, the Environmental Quality Commission shall establish by rule interim numerical standards for maximum measurable levels of contaminants in ground water. The interim numerical standards shall be applied in lieu of maximum measurable levels for contaminants in ground water under section 25 of this Act until the commis-

sion by rule adopts such levels under section 25 of this Act. The process for establishing interim numerical standards shall be as follows:

(a) If a federal standard for a substance has been adopted by federal regulation, the commission shall adopt the federal standard.

(b) If a federal standard for a substance has not been adopted by federal regulation, but one or more federal standards have been established by methods other than by adoption of a federal regulation, the commission shall adopt the most recently established federal standard as the numerical standard.

(c) If a federal regulation has not been established either by adoption of a federal regulation or by any other method, the commission shall request the U. S. Environmental Protection Agency to establish a federal standard for the substance, either by adoption of a federal regulation, or by other method.

(2) As used in this section "federal standard" means a maximum contaminant level, a national primary drinking water regulation or an interim drinking water regulation adopted by the Administrator of the U.S. Environmental Protection Agency pursuant to the federal Safe Drinking Water Act, as amended, 42 U.S.C. 300g-1.

SECTION 27. The Department of Environmental Quality shall provide staff for project oversight and the day-to-day operation of the Strategic Water Management Group for those activities authorized under sections 20 to 25, 34, 35 and 39 to 44 of this Act, including scheduling meetings, providing public notice of meetings and other group activities and keeping records of group activities.

SECTION 28. Section 29 of this Act is added to and made a part of ORS 468.700 to 468.777.

SECTION 29. (1) In cooperation with the Water Resources Department, the Department of Environmental Quality and the Oregon State University Agricultural Experiment Station shall conduct an ongoing state-wide monitoring and assessment program of the quality of the ground water resource of this state. The program shall be designed to identify:

(a) Areas of the state that are especially vulnerable to ground water contamination;

(b) Long-term trends in ground water quality;

(c) Ambient quality of the ground water resource of Oregon; and

(d) Any emerging ground water quality problems.

(2) The department and Oregon State University Agricultural Experiment Station shall forward copies of all information acquired from the state-wide monitoring and assessment program conducted under this section to the Strategic Water Management Group for inclusion in the central repository of information about Oregon's ground water resource established pursuant to section 20 of this 1989 Act.

SECTION 30. (1) In any transaction for the sale or exchange of real estate that includes a well that supplies ground water for domestic purposes, the seller of the real estate shall, upon accepting an offer to purchase that real estate, have the well tested for nitrates and total coliform bacteria. The Health Division also may require additional tests for specific contaminants in an area of ground water concern or ground water management area. The seller shall submit the results of the test required under this section to the Health Division.

(2) The failure of a seller to comply with the provisions of this section does not invalidate an instrument of conveyance executed in the transaction.

SECTION 31. If, as a result of its state-wide monitoring and assessment activities under section 29 of this Act, the Department of Environmental Quality confirms the presence in ground water of

contaminants suspected to be the result, at least in part, of nonpoint source activities, the department shall declare an area of ground water concern. The declaration shall identify the substances confirmed to be in the ground water and all ground water aquifers that may be affected.

SECTION 32. If, as a result of its activities under ORS 448.150, the Health Division confirms the presence in ground water drinking water supplies of contaminants resulting at least in part from suspected nonpoint source activities, the division shall declare an area of ground water concern. The declaration shall identify the substances confirmed in the ground water and all ground water aquifers that may be affected.

SECTION 33. Before declaring an area of ground water concern, the agency making the declaration shall have a laboratory confirm the results that would cause the agency to make the declaration.

SECTION 34. After a declaration of an area of ground water concern, the Strategic Water Management Group shall:

(1) Within 90 days, appoint a ground water management committee in the geographic area overlying the ground water aquifer;

(2) Focus research and public education activities on the area of ground water concern;

(3) Provide for necessary monitoring in the area of ground water concern;

(4) Assist the ground water management committee in developing, in a timely manner, a draft and final local action plan for addressing the issues raised by the declaration of an area of ground water concern; and

(5) If not developed by the ground water management committee, develop a draft and final local action plan.

SECTION 35. (1) Upon the request of a local government, or as required under section 34 or 40 of this Act, the Strategic Water Management Group shall appoint a ground water management committee. The ground water management committee shall be composed of at least seven members representing a balance of interests in the area affected by the declaration.

(2) After a declaration of an area of ground water concern, the ground water management committee shall develop and promote a local action plan for the area of ground water concern. The local action plan shall include but need not be limited to:

(a) Identification of local residential, industrial and agricultural practices that may be contributing to a deterioration of ground water quality in the area;

(b) An evaluation of the threat to ground water from the potential nonpoint sources identified;

(c) Evaluation and recommendations of alternative practices;

(d) Recommendations regarding demonstration projects needed in the area;

(e) Recommendations of public education and research specific to that area that would assist in addressing the issues related to the area of ground water concern; and

(f) Methods of implementing best practicable management practices to improve ground water quality in the area.

(3) The availability of the draft local action plan and announcement of a 30-day public comment period shall be publicized in a newspaper of general circulation in the area designated as an area of ground water concern. Suggestions provided to the ground water management committee during the public comment period shall be considered by the ground water management committee in determining the final action plan.

(4) The ground water management committee may request the Strategic Water Management

Group to arrange for technical advice and assistance from appropriate state agencies and higher education institutions.

(5) A ground water management committee preparing or carrying out an action plan in an area of ground water concern or in a ground water management area may apply for a grant under section 21 of this Act for limited funding for staff or for expenses of the ground water management committee.

SECTION 36. (1) The Department of Environmental Quality shall declare a ground water management area if, as a result of information provided to the department or from its state-wide monitoring and assessment activities under section 29 of this Act, the department confirms that, as a result of suspected nonpoint source activities, there is present in the ground water:

(a) Nitrate contaminants at levels greater than 70 percent of the levels established pursuant to section 25 of this Act; or

(b) Any other contaminants at levels greater than 50 percent of the levels established pursuant to section 25 of this Act.

(2) A declaration under subsection (1) of this section shall identify the substances detected in the ground water and all ground water aquifers that may be affected.

SECTION 37. Before declaring a ground water management area under section 36 of this Act, the agency shall have a second laboratory confirm the results that cause the agency to make the declaration.

SECTION 38. Notwithstanding the requirements of section 36 of this Act, for two years after the effective date of this Act, a ground water management area shall not be established on the basis of excessive nitrate levels unless levels of nitrates in ground water are determined to exceed 100 percent of the levels established pursuant to section 25 of this Act.

SECTION 39. After the declaration of a ground water management area, a ground water management committee created under section 35 of this Act shall:

(1) Evaluate those portions of the local action plan, if any, that achieved a reduction in contaminant level;

(2) Advise the state agencies developing an action plan under sections 41 to 43 of this Act regarding local elements of the plan; and

(3) Analyze the local action plan, if any, developed pursuant to section 35 of this Act to determine why the plan failed to improve or prevent further deterioration of the ground water in the ground water management area designated in the declaration.

SECTION 40. After the declaration of a ground water management area, the Strategic Water Management Group shall appoint a ground water management committee for the affected area if a ground water management committee has not already been appointed under section 34 of this Act. If the affected area had previously been designated an area of ground water concern, the same ground water management committee appointed under section 34 of this Act shall continue to address the ground water issues raised as a result of the declaration of a ground water management area.

SECTION 41. After the Strategic Water Management Group is notified that a ground water management area has been declared, the Strategic Water Management Group shall designate a lead agency responsible for developing an action plan and assign other agencies appropriate responsibilities for preparation of a draft action plan within 90 days after the declaration. The agencies shall develop an action plan to reduce existing contamination and to prevent further contamination of the

affected ground water aquifer. The action plan shall include, but need not be limited to:

(1) Identification of practices that may be contributing to the contamination of ground water in the area;

(2) Consideration of all reasonable alternatives for reducing the contaminatio of the ground water to a level below that level requiring the declaration of a ground water management area;

(3) Recommendations of mandatory actions that, when implemented, will reduce the contamination to a level below that level requiring the declaration of ground water management area;

(4) A proposed time schedule for:

(a) Implementing the group's recommendations;

(b) Achieving estimated reductions in concentrations of the ground water contaminants; and

(c) Public review of the action plan;

(5) Any applicable provisions of a local action plan developed for the area under a declaration of an area of ground water concern; and

(6) Required amendments of affected city or county comprehensive plans and land use regulations in accordance with the schedule and requirements in ORS 197.640 to 197.647 to address the identified ground water protection and management concerns.

SECTION 42. (1) After completion and distribution of the draft action plan under section 41 of this Act, the lead agency shall provide a 60-day period of public comment on the draft action plan and the manner by which members of the public may review the plan or obtain copies of the plan. A notice of the comment period shall be published in two issues of one or more newspapers having general circulation in the counties in which the designated area of the ground water emergency is located, and in two issues of one or more newspapers having general circulation in the state.

(2) Within 60 days after the close of the public comment period, the lead agency shall complete a final action plan. All suggestions and information provided to the lead agency during the public comment period shall be considered by the lead agency and when appropriate shall be acknowledged in the final action plan.

SECTION 43. (1) The Strategic Water Management Group shall, within 30 days after completion of the final action plan, accept the final action plan or remand the plan to the lead agency for revision in accordance with recommendations of the Strategic Water Management Group. If the plan is remanded for revision, the lead agency shall return the revised final action plan to the Strategic Water Management Group within 30 days.

(2) Within 120 days after the Strategic Water Management Group accepts the final action plan, each agency of the group that is responsible for implementing all or part of the plan shall adopt rules necessary to carry out the agency's duties under the action plan. If two or more agencies are required to initiate rulemaking proceedings under this section, the agencies shall consult with one another to coordinate the rules. The agencies may consolidate the rulemaking proceedings.

SECTION 44. (1) If, after implementation of the action plan developed by affected agencies under sections 41 to 43 of this Act, the ground water improves so that the levels of contaminants no longer exceed the levels established under section 36 of this Act, the Strategic Water Management Group shall request the Department of Environmental Quality to repeal the ground water management area declaration and to establish an area of ground water concern.

(2) Before the declaration of a ground water management area is repealed under subsection (1) of this section, the Strategic Water Management Group must find that, according to the best information available, a new or revised local action plan exists that will continue to improve the ground

water in the area and that the Strategic Water Management Group finds can be implemented at the local level without the necessity of state enforcement authority.

(3) Before the Strategic Water Management Group terminates any mandatory controls imposed under the action plan created under sections 41 to 43 of this Act, the ground water management committee must produce a local action plan that includes provisions necessary to improve ground water in the area and that the Strategic Water Management Group finds can be implemented at the local level without the necessity of state enforcement authority.

SECTION 45. Section 46 of this Act is added to and made a part of ORS chapter 516.

SECTION 46. (1) In carrying out its duties related to mineral resources, mineral industries and geology, the State Department of Geology and Mineral Industries shall act in a manner that is consistent with the goal set forth in section 18 of this 1989 Act.

(2) In order to assist in the development of a state-wide repository of information about Oregon's ground water resource, the department shall provide any information, acquired by the department in carrying out its statutory duties, that is related to ground water quality to the centralized repository established pursuant to section 20 of this 1989 Act.

SECTION 47. Section 48 of this Act is added to and made a part of ORS chapter 197.

SECTION 48. (1) The commission shall take actions it considers necessary to assure that city and county comprehensive plans and land use regulations and state agency coordination programs are consistent with the goal set forth in section 18 of this 1989 Act.

(2) The commission shall direct the Department of Land Conservation and Development to take actions the department considers appropriate to assure that any information contained in a city or county comprehensive plan that pertains to the ground water resource of Oregon shall be forwarded to the centralized repository established under section 20 of this 1989 Act.

SECTION 49. ORS 366.155 is amended to read:

366.155. (1) The State Highway Engineer, under the direction of the director, among other things, shall:

(a) So far as practicable, compile statistics relative to the public highways of the state and collect all information in regard thereto which the State Highway Engineer may deem important or of value in connection with highway location, construction, maintenance, improvement or operation.

(b) Keep on file in the office of the department copies of all plans, specifications and estimates prepared by the State Highway Engineer's office.

(c) Make all necessary surveys for the location or relocation of highways and cause to be made and kept in the State Highway Engineer's office a general highway plan of the state.

(d) Collect and compile information and statistics relative to the mileage, character and condition of highways and bridges in the different counties in the state, both with respect to state and county highways.

(e) Investigate and determine the methods of road construction best adapted in the various counties or sections of the state, giving due regard to the topography, natural character and availability of road-building materials and the cost of building and maintaining roads under this Act.

(f) Prepare surveys, plans, specifications and estimates for the construction, reconstruction, improvement, maintenance and repair of any bridge, street, road and highway. In advertising for bids on any such project the director shall invite bids in conformity with such plans and specifications.

(g) Keep an accurate and detailed account of all moneys expended in the location, survey, construction, reconstruction, improvement, maintenance or operation of highways, roads and streets,

including costs for rights of way, under this Act, and keep a record of the number of miles so located, constructed, maintained or operated in each county, the date of construction, the width of such highways and the cost per mile for the construction and maintenance of the highways.

(h) Install and operate a simple but adequate accounting system in order that all expenditures and costs may be classified and that a proper record may be maintained.

(i) Prepare proper and correct statements or vouchers to make possible partial payments on all contracts for highway projects based upon estimates prepared by the State Highway Engineer or under the State Highway Engineer's direction, and submit them to the director for approval.

(j) Prepare proper vouchers covering claims for all salaries and expenses of the State Highway Engineer's office and other expenditures authorized by the director. Such claims as may be approved by the director shall be indorsed by the director and be presented for payment.

(k) Upon request of a county governing body, assist the county on matters relating to road location, construction or maintenance. Plans and specifications for bridges or culverts and standard specifications for road projects that are provided under this paragraph shall be provided without cost. The Department of Transportation shall determine an amount to be charged for assistance under this paragraph in establishing specifications and standards for roads under ORS 368.036. The costs of assistance not specifically provided for under this paragraph shall be paid as provided by agreement between the county governing body and the State Highway Engineer.

(L) Prepare and submit to the commission on or about December 31 of each year an annual report in which the State Highway Engineer shall set forth all that has been done by the Highway Division of the Department of Transportation during the year just ending, which report shall include all funds received, the source or sources from which received, the expenditure and disbursement of all funds and the purposes for which they were expended. The report shall contain a statement of the roads, highways or streets constructed, reconstructed and improved during the period, together with a statement showing in a general way the status of the highway system.

(2) The director may, in the director's discretion, relieve the State Highway Engineer of such portions of the State Highway Engineer's duties and responsibilities with respect to audits, accounting procedures and other like duties and responsibilities provided for in ORS 366.155 to 366.165 as the director considers advisable. The director may require such portion of such duties to be performed and such responsibilities to be assumed by the fiscal officer of the department appointed under ORS 184.637.

(3) In carrying out the duties set forth in this section, the State Highway Engineer shall act in a manner that is consistent with the goal set forth in section 18 of this 1989 Act.

SECTION 50. ORS 448.123 is amended to read:

448.123. (1) It is the purpose of ORS 448.119 to 448.285, 454.235, 454.255 and 757.005 to:

[*(1)*] **(a)** Assure all Oregonians safe drinking water.

[*(2)*] **(b)** Provide a simple and effective regulatory program for drinking water systems.

[*(3)*] **(c)** Provide a means to improve inadequate drinking water systems.

(2) In carrying out the purpose set forth in subsection (1) of this section, the Health Division shall act in accordance with the goal set forth in section 18 of this 1989 Act.

(3) If, in carrying out any duty prescribed by law, the Health Division acquires information related to ground water quality in Oregon, the Health Division shall forward a copy of the information to the centralized repository established pursuant to section 20 of this 1989 Act.

SECTION 51. ORS 448.150 is amended to read:

448.150. (1) The division shall:

[*(1)*] (a) Conduct periodic sanitary surveys of drinking water systems and sources, take water samples and inspect records to insure the system is not creating an unreasonable risk to health. The division shall provide written reports of such examinations to the local health administrator and to the water supplier.

[*(2)*] (b) Require regular water sampling by water suppliers. These samples shall be analyzed in a laboratory approved by the division. The results of the laboratory analysis shall be reported to the division, the local health department and to the water supplier.

[*(3)*] (c) Investigate any water system that fails to meet the water quality standards established by the division.

[*(4)*] (d) Require every water supplier that provides drinking water that is from a surface water source to conduct sanitary surveys of the watershed as may be considered necessary by the division for the protection of public health. The water supplier shall make written reports of such sanitary surveys of watersheds promptly to the division and to the local health department.

[*(5)*] (e) Investigate reports of waterborne disease pursuant to its authority under ORS 431.110 and take necessary actions as provided for in ORS 446.310, 448.030, 448.115 to 448.285, 454.235, 454.255, 455.680 and 757.005 to protect the public health and safety.

(f) Notify the Department of Environmental Quality of a potential ground water management area if, as a result of its water sampling under paragraphs (a) to (e) of this subsection, the division detects the presence in ground water of:

(A) Nitrate contaminants at levels greater than 70 percent of the levels established pursuant to section 25 of this 1989 Act; or

(B) Any other contaminants at levels greater than 50 percent of the levels established pursuant to section 25 of this 1989 Act.

(2) The notification required under paragraph (f) of subsection (1) of this section shall identify the substances detected in the ground water and all ground water aquifers that may be affected.

SECTION 52. ORS 536.120 is amended to read:

536.120. (1) The Strategic Water Management Group shall coordinate all of the following:

[*(1)*] (a) Agency activities insofar as those activities affect the water resources of this state. Such activities include the periodic review and updating by the agencies of the agencies' water related data, policies and management plans.

[*(2)*] (b) The responses of state agencies to problems and issues affecting the water resources of this state when such responses require the participation of numerous state agencies.

(c) Interagency management of ground water as necessary to achieve the goal set forth in section 18 of this 1989 Act.

(d) The regulatory activities of any affected state agency responding to the declaration of a ground water management area under section 36 of this 1989 Act. As used in this subsection "affected state agency" means any agency having management responsibility for, or regulatory control over the ground water resource of this state or any substance that may contaminate the ground water resource of this state.

[*(3)*] (e) The development of the water related portions of each member agency's biennial budget as submitted to the Governor that affect the water related activities of other state agencies.

(2) In addition to its duties under subsection (1) of this section, the Strategic Water Management Group shall, on or before January 1 of each odd-numbered year, prepare a report to the Legislative Assembly. The report shall include the status of ground water in Oregon, efforts made in the immediately preceding year to protect, conserve and restore Oregon's ground water resources, grants awarded under section 21 of this 1989 Act and any proposed legislation the group finds necessary to accomplish the goal set forth in section 18 of this 1989 Act.

SECTION 53. ORS 536.220 is amended to read:

536.220. (1) The Legislative Assembly recognizes and declares that:

(a) The maintenance of the present level of the economic and general welfare of the people of this state and the future growth and development of this state for the increased economic and general welfare of the people thereof are in large part dependent upon a proper utilization and control of the water resources of this state, and such use and control is therefore a matter of greatest concern and highest priority.

(b) A proper utilization and control of the water resources of this state can be achieved only through a coordinated, integrated state water resources policy, through plans and programs for the development of such water resources and through other activities designed to encourage, promote and secure the maximum beneficial use and control of such water resources, all carried out by a single state agency.

(c) The economic and general welfare of the people of this state have been seriously impaired and are in danger of further impairment by the exercise of some single-purpose power or influence over the water resources of this state or portions thereof by each of a large number of public authorities, and by an equally large number of legislative declarations by statute of single-purpose policies with regard to such water resources, resulting in friction and duplication of activity among such public authorities, in confusion as to what is primary and what is secondary beneficial use or control of such water resources and in a consequent failure to utilize and control such water resources for multiple purposes for the maximum beneficial use and control possible and necessary.

(2) The Legislative Assembly, therefore, finds that:

(a) It is in the interest of the public welfare that a coordinated, integrated state water resources policy be formulated and means provided for its enforcement, that plans and programs for the development and enlargement of the water resources of this state be devised and promoted and that other activities designed to encourage, promote and secure the maximum beneficial use and control of such water resources and the development of additional water supplies be carried out by a single state agency which, in carrying out its functions, shall give proper and adequate consideration to the multiple aspects of the beneficial use and control of such water resources with an impartiality of interest except that designed to best protect and promote the public welfare generally.

(b) The state water resources policy shall be consistent with the goal set forth in section 18 of this 1989 Act.

SECTION 54. ORS 536.340 is amended to read:

536.340. Subject at all times to existing rights and priorities to use waters of this state, the commission:

(1) May, by a water resources statement referred to in ORS 536.300 (2), classify and reclassify the lakes, streams, underground reservoirs or other sources of water supply in this state as to the highest and best use and quantities of use thereof for the future in aid of an integrated and balanced

program for the benefit of the state as a whole. The commission may so classify and reclassify portions of any such sources of water supply separately. Classification or reclassification of sources of water supply as provided in the subsection has the effect of restricting the use and quantities of use thereof to the uses and quantities of uses specified in the classification or reclassification, and no other uses or quantities of uses except as approved by the commission under ORS 536.370 to 536.390. **Restrictions on use and quantities of use of a source of water supply resulting from a classification or reclassification under this section shall apply to the use of all waters of this state affected by the classification or reclassification, and shall apply to uses listed in ORS 537.545 that are initiated after the classification or reclassification that imposes the restriction.**

(2) Shall diligently enforce laws concerning cancellation, release and discharge of excessive unused claims to waters of this state to the end that such excessive and unused amounts may be made available for appropriation and beneficial use by the public.

(3) May, by a water resources statement referred to in ORS 536.300 (2) and subject to the preferential uses named in ORS 536.310 (12), prescribe preferences for the future for particular uses and quantities of uses of the waters of any lake, stream or other source of water supply in this state in aid of the highest and best beneficial use and quantities of use thereof. In prescribing such preferences the commission shall give effect and due regard to the natural characteristics of such sources of water supply, the adjacent topography, the economy of such sources of water supply, the economy of the affected area, seasonal requirements of various users of such waters, the type of proposed use as between consumptive and nonconsumptive uses and other pertinent data.

SECTION 55. ORS 536.410 is amended to read:

536.410. (1) When the Water Resources Commission determines that it is necessary to insure compliance with the state water resources policy or that it is otherwise necessary in the public interest to conserve the water resources of this state for the maximum beneficial use and control thereof that any unappropriated waters of this state, including unappropriated waters released from storage or impoundment into the natural flow of a stream for specified purposes, be withdrawn from appropriation for all or any uses **including exempt uses under ORS 537.545**, the commission, on behalf of the state, may issue an order of withdrawal.

(2) Prior to the issuance of the order of withdrawal the commission shall hold a public hearing on the necessity for the withdrawal. Notice of the hearing shall be published in at least one issue each week for at least two consecutive weeks prior to the hearing in a newspaper of general circulation published in each county in which are located the waters proposed to be withdrawn.

(3) The order of withdrawal shall specify with particularity the waters withdrawn from appropriation, the uses for which the waters are withdrawn, the reason for the withdrawal and the duration of the withdrawal. The commission may modify or revoke the order at any time.

(4) Copies of the order of withdrawal and notices of any modification or revocation of the order of withdrawal shall be filed in the Water Resources Department.

(5) While the order of withdrawal is in effect, no application for a permit to appropriate the waters withdrawn for the uses specified in the order and no application for a preliminary permit or license involving appropriations of such waters shall be received for filing by the Water Resources Commission.

SECTION 56. ORS 537.525 is amended to read:

537.525. The Legislative Assembly recognizes, declares and finds that the right to reasonable

control of all water within this state from all sources of water supply belongs to the public, and that in order to insure the preservation of the public welfare, safety and health it is necessary that:

(1) Provision be made for the final determination of relative rights to appropriate ground water everywhere within this state and of other matters with regard thereto through a system of registration, permits and adjudication.

(2) Rights to appropriate ground water and priority thereof be acknowledged and protected, except when, under certain conditions, the public welfare, safety and health require otherwise.

(3) Beneficial use without waste, within the capacity of available sources, be the basis, measure and extent of the right to appropriate ground water.

(4) All claims to rights to appropriate ground water be made a matter of public record.

(5) Adequate and safe supplies of ground water for human consumption be assured, while conserving maximum supplies of ground water for agricultural, commercial, industrial, recreational and other beneficial uses.

(6) The location, extent, capacity, quality and other characteristics of particular sources of ground water be determined.

(7) Reasonably stable ground water levels be determined and maintained.

(8) Depletion of ground water supplies below economic levels, impairment of natural quality of ground water by pollution and wasteful practices in connection with ground water be prevented or controlled within practicable limits.

(9) Whenever wasteful use of ground water, impairment of or interference with existing rights to appropriate surface water, declining ground water levels, interference among wells, overdrawing of ground water supplies or pollution of ground water exists or impends, controlled use of the ground water concerned be authorized and imposed under voluntary joint action by the Water Resources Commission and the ground water users concerned whenever possible, but by the commission under the police power of the state when such voluntary joint action is not taken or is ineffective.

(10) Location, construction, depth, capacity, yield and other characteristics of and matters in connection with wells be controlled in accordance with the purposes set forth in this section.

(11) All activities in the state that affect the quality or quantity of ground water shall be consistent with the goal set forth in section 18 of this 1989 Act.

SECTION 57. ORS 537.545 is amended to read:

537.545. (1) **Except as provided in subsection (3) of this section,** no registration, certificate of registration, application for a permit, permit, certificate of completion or ground water right certificate under ORS 537.505 to 537.795 is required for the use of ground water for:

(a) Stockwatering purposes;

(b) Watering any lawn or noncommercial garden not exceeding one-half acre in area;

(c) Watering the grounds, three acres in size or less, of schools that have less than 100 students and that are located in cities with a population of less than 10,000;

(d) Single or group domestic purposes in an amount not exceeding 15,000 gallons a day;

(e) Down-hole heat exchange purposes; or

(f) Any single industrial or commercial purpose in an amount not exceeding 5,000 gallons a day.

(2) The use of ground water for [*any such purpose*] **a use exempt under subsection (1) of this section,** to the extent that it is beneficial, constitutes a right to appropriate ground water equal to that established by a ground water right certificate issued under ORS 537.700. The Water Resources

Commission may require any person or public agency using ground water for any such purpose to furnish information with regard to such ground water and the use thereof.

(3) After declaration of a ground water management area, any person intending to make a new use of ground water that is exempt under subsection (1) of this section shall apply for a ground water permit under ORS 537.505 to 537.795 to use the water. Any person applying for a permit for an otherwise exempt use shall not be required to pay a fee for the permit.

SECTION 58. ORS 537.665 is amended to read:

537.665. **(1) Upon its own motion, or upon the request of another state agency or local government,** the Water Resources Commission, **within the limitations of available resources,** shall proceed as rapidly as possible to identify and define tentatively the location, extent, depth and other characteristics of each ground water reservoir in this state, and shall assign to each a distinctive name or number or both as a means of identification. The commission may make any investigation and gather all data and information essential to a proper understanding of the characteristics of each ground water reservoir and the relative rights to appropriate ground water from each ground water reservoir.

(2) In identifying the characteristics of each ground water reservoir under subsection (1) of this section, the commission shall coordinate its activities with activities of the Department of Environmental Quality under section 29 of this 1989 Act in order that the final characterization may include an assessment of both ground water quality and ground water quantity.

(3) Before the commission makes a final determination of boundaries and depth of any ground water reservoir, the director shall proceed to make a final determination of the rights to appropriate the ground water of the ground water reservoir under ORS 537.670 to 537.695.

(4) The commission shall forward copies of all information acquired from an assessment conducted under this section to the central repository of information about Oregon's ground water resource established pursuant to section 20 of this 1989 Act.

SECTION 59. ORS 537.775 is amended to read:

537.775. (1) Whenever the Water Resources Commission finds that any well, including any well exempt under ORS 537.545, is by the nature of its construction, operation or otherwise causing wasteful use of ground water, is unduly interfering with other wells or surface water supply **is a threat to health** or is polluting ground water or surface water supplies contrary to ORS 537.505 to 537.795, the commission may order discontinuance of **the use of the well,** [*or*] impose conditions upon the use of such well to such extent as may be necessary to remedy the defect **or order permanent abandonment of the well according to specifications of the commission.**

(2) In the absence of a determination of a critical ground water area, any order issued under this section imposing conditions upon interfering wells shall provide to each party all water to which the party is entitled, in accordance with the date of priority of the water right.

SECTION 60. ORS 537.780 is amended to read:

537.780. In the administration of ORS 537.505 to 537.795, the Water Resources Commission may:

(1) Require that all flowing wells be capped or equipped with valves so that the flow of ground water may be completely stopped when the ground water is not actually being applied to a beneficial use.

(2) Enforce:

(a) General standards for the construction and maintenance of wells and their casings, fittings,

valves, [*and*] pumps[,] and **back-siphoning prevention devices; and**

(b) Special standards for the construction and maintenance of particular wells and their casings, fittings, valves and pumps.

(3)(a) Adopt by rule and enforce when necessary to protect the ground water resource, standards for the construction, maintenance, abandonment or use of any hole through which ground water may be contaminated; or [.]

(b) Enter into an agreement with, or advise, other state agencies that are responsible for holes other than wells through which ground water may be contaminated in order to protect the ground water resource from contamination.

[*(3)*] **(4)** Enforce uniform standards for the scientific measurement of water levels and of ground water flowing or withdrawn from wells.

[*(4)*] **(5)** Enter upon any lands for the purpose of inspecting wells, including wells exempt under ORS 537.545, casings, fittings, valves, pipes, pumps [*and*], measuring devices **and back-siphoning prevention devices.**

[*(5)*] **(6)** Prosecute actions and suits to enjoin violations of ORS 537.505 to 537.795, and appear and become a party to any action, suit or proceeding in any court or before any administrative body when it appears to the satisfaction of the commission that the determination of the action, suit or proceeding might be in conflict with the public policy expressed in ORS 537.525.

[*(6)*] **(7)** Call upon and receive advice and assistance from the Environmental Quality Commission or any other public agency or any person, and enter into cooperative agreements with a public agency or person.

[*(7)*] **(8)** Adopt and enforce rules necessary to carry out the provisions of ORS 537.505 to 537.795 including but not limited to rules governing:

(a) The form and content of registration statements, certificates of registration, applications for permits, permits, certificates of completion, ground water right certificates, notices, proofs, maps, drawings, logs and licenses;

(b) Procedure in hearings held by the commission; and

(c) The circumstances under which the helpers of persons operating well drilling machinery may be exempt from the requirement of direct supervision by a licensed water well constructor.

[*(8)*] **(9)** In accordance with applicable law regarding search and seizure, apply to any court of competent jurisdiction for a warrant to seize any well drilling machine used in violation of ORS 537.747 or 537.753.

SECTION 61. ORS 540.610 is amended to read:

540.610. (1) Beneficial use shall be the basis, the measure and the limit of all rights to the use of water in this state. Whenever the owner of a perfected and developed water right ceases or fails to use the water appropriated for a period of five successive years, the right to use shall cease, and the failure to use shall be conclusively presumed to be an abandonment of water right. Thereafter the water which was the subject of use under such water right shall revert to the public and become again the subject of appropriation in the manner provided by law, subject to existing priorities.

(2) Subsection (1) of this section shall not:

(a) Apply to, or affect, the use of water, or rights of use, acquired by cities and towns in this state, by appropriation or by purchase, for all reasonable and usual municipal purposes.

(b) Be so construed as to impair any of the rights of such cities and towns to the use of water, whether acquired by appropriation or purchase, or heretofore recognized by act of the legislature,

or which may hereafter be acquired.

(c) Apply to, or affect, the use of water, or rights of use, appurtenant to property obtained by the Department of Veterans' Affairs under ORS 407.135 or 407.145 for three years after the expiration of redemptions as provided in ORS 23.530 to 23.600 while the land is held by the Director of Veterans' Affairs, even if during such time the water is not used for a period of more than five successive years.

(d) Apply to, or affect the use of water, or rights of use, under a water right, if the owner of the property to which the right is appurtenant is unable to use the water due to economic hardship as defined by rule by the commission.

(e) Apply to, or affect, the use of water, or rights of use, under a water right, if the use of water under the right is discontinued under an order of the commission under ORS 537.775.

(3) The right of all cities and towns in this state to acquire rights to the use of the water of natural streams and lakes, not otherwise appropriated, and subject to existing rights, for all reasonable and usual municipal purposes, and for such future reasonable and usual municipal purposes as may reasonably be anticipated by reason of growth of population, or to secure sufficient water supply in cases of emergency, is expressly confirmed.

SECTION 61a. If Senate Bill 153 becomes law, section 61 of this Act is repealed and ORS 540.610, as amended by section 1, chapter _____, Oregon Laws 1989 (Enrolled Senate Bill 153), is further amended to read:

540.610. (1) Beneficial use shall be the basis, the measure and the limit of all rights to the use of water in this state. Whenever the owner of a perfected and developed water right ceases or fails to use all or part of the water appropriated for a period of five successive years, the failure to use shall establish a rebuttable presumption of forfeiture of all or part of the water right. Thereafter the water which was the subject of use under such water right shall revert to the public and become again the subject of appropriation in the manner provided by law, subject to existing priorities.

(2) Upon a showing of failure to use beneficially for five successive years, the appropriator has the burden of rebutting the presumption of forfeiture by showing one or more of the following:

(a) The water right is for use of water, or rights of use, acquired by cities and towns in this state, by appropriation or by purchase, for all reasonable and usual municipal purposes.

(b) A finding of forfeiture would impair the rights of such cities and towns to the use of water, whether acquired by appropriation or purchase, or heretofore recognized by act of the legislature, or which may hereafter be acquired.

(c) The use of water, or rights of use, are appurtenant to property obtained by the Department of Veterans' Affairs under ORS 407.135 or 407.145 for three years after the expiration of redemptions as provided in ORS 23.530 to 23.600 while the land is held by the Director of Veterans' Affairs, even if during such time the water is not used for a period of more than five successive years.

(d) The use of water, or rights of use, under a water right, if the owner of the property to which the right is appurtenant is unable to use the water due to economic hardship as defined by rule by the commission.

(e) The period of nonuse occurred during a period of time within which land was withdrawn from use in accordance with the Act of Congress of May 28, 1956, chapter 327 (7 U.S.C. 1801-1814; 1821-1824; 1831-1837), or the Federal Conservation Reserve Program, Act of Congress of December 23, 1985, chapter 198 (16 U.S.C. 3831-3836, 3841-3845). If necessary, in a cancellation proceeding un-

der this section, the water right holder rebutting the presumption under this paragraph shall provide documentation that the water right holder's land was withdrawn from use under a federal reserve program.

(f) The end of the alleged period of nonuse occurred more than 15 years before the date upon which evidence of nonuse was submitted to the commission or the commission initiated cancellation proceedings under ORS 540.631, whichever occurs first.

(g) The owner of the property to which the water right was appurtenant is unable to use the water because the use of water under the right is discontinued under an order of the commission under ORS 537.775.

(3) The right of all cities and towns in this state to acquire rights to the use of the water of natural streams and lakes, not otherwise appropriated, and subject to existing rights, for all reasonable and usual municipal purposes, and for such future reasonable and usual municipal purposes as may reasonably be anticipated by reason of growth of population, or to secure sufficient water supply in cases of emergency, is expressly confirmed.

SECTION 62. ORS 561.020 is amended to read:

561.020. (1) The department shall have full responsibility and authority for all the inspectional, regulatory and market development work provided for under the provisions of all statutes which the department is empowered and directed to enforce.

(2) The department shall encourage and work toward long-range planning to develop and promote the agricultural resources of Oregon that they may contribute as greatly as possible to the future economy of the state.

(3) The Director of Agriculture shall coordinate any activities of the department related to a watershed enhancement project approved by the Governor's Watershed Enhancement Board under ORS 541.375 with activities of other cooperating state and federal agencies participating in the project.

(4) The Director of Agriculture shall conduct any activities of the department in a manner consistent with the goal set forth in section 18 of this 1989 Act.

SECTION 63. ORS 568.225 is amended to read:

568.225. **(1)** In recognition of the ever-increasing demands on the renewable natural resources of the state and of the need to conserve, protect and develop such resources, it is hereby declared to be the policy of the Legislative Assembly to provide for the conservation of the renewable natural resources of the state and thereby to conserve and develop natural resources, control and prevent soil erosion, control floods, conserve and develop water resources and water quality, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, preserve wildlife, conserve natural beauty, promote recreational development, protect the tax base, protect public lands and protect and promote the health, safety and general welfare of the people of this state.

(2) It is further the policy of the Legislative Assembly to authorize soil and water conservation [*local advisory committees*] **districts** established under ORS 568.210 to 568.805 to participate in effectuating the [*above*] policy **set forth in subsection (1) of this section** and for such purposes to cooperate with landowners, land occupiers, other natural resource users, other local governmental units, and with agencies of the government of this state and of the United States, in projects, programs and activities calculated to accelerate such policies. **In effectuating the policy set forth in subsection (1) of this section, the soil and water conservation districts also shall strive to**

achieve the goal set forth in section 18 of this 1989 Act.

SECTION 64. ORS 633.440 is amended to read:

633.440. (1) The department shall administer and enforce ORS 633.310 to 633.495, [ ] for that purpose may make rules and regulations not inconsistent with law.

(2) The department shall prosecute any violations of those sections.

(3) **Upon the declaration of a ground water management area under section 36 of this 1989 Act, or** when the department has reasonable cause to believe any quantity or lot of fertilizer, agricultural mineral, agricultural amendment or lime is being sold or distributed in violation of ORS 633.310 to 633.495 or rules promulgated thereunder *[it]* **the department** may, in accordance with ORS 561.605 to 561.620, issue and enforce a written "withdrawal from distribution" order directing the distributor thereof not to dispose of the quantity or lot of fertilizer, agricultural minerals, agricultural amendments or lime in any manner until written permission is first given by the department. The department shall release the quantity or lot of fertilizer, agricultural minerals, agricultural amendments or lime so withdrawn when said law or rules have been complied with.

(4) Any quantity or lot of fertilizer, agricultural minerals, agricultural amendments or lime found by the department not to be in compliance with ORS 633.310 to 633.495 or rules promulgated thereunder may be seized by the department in accordance with the provisions of ORS 561.605 to 561.620.

SECTION 65. ORS 633.460 is amended to read:

633.460. (1) Each person who as set forth in subsection (3) of this section is a first purchaser of fertilizers, agricultural minerals, agricultural amendments or lime in this state shall pay to the department an inspection fee established by the department by rule of:

(a) Not to exceed *[20]* **45 cents** for each ton of fertilizer, agricultural minerals, or agricultural amendments purchased by such person during each calendar year, **25 cents of which shall be continuously appropriated to the State Department of Agriculture for the purpose of funding grants for research and development related to the interaction of pesticides or fertilizers and ground water.**

(b) Not to exceed five cents for each ton of gypsum, land plaster and every agricultural mineral the principal constituent of which is calcium sulphate ($CaSO_4 \cdot 2H_2O$), purchased by such person during each calendar year.

(c) Not to exceed five cents for each ton of lime purchased by such first purchaser during each calendar year.

(2) In computing the tonnage on which the inspection fee must be paid as required in subsection (1) of this section, sales or purchases of fertilizers, agricultural minerals, agricultural amendments and lime in individual packages weighing five pounds net or less, and sales of fertilizers, agricultural minerals, agricultural amendments and lime for shipment to points outside this state, may be excluded.

(3) "First purchaser" or "purchased" for the purpose of this section, except as otherwise prescribed by the department, means the first person in Oregon who buys or purchases, or who takes title to, or who handles, receives or obtains possession of, fertilizer, agricultural minerals, agricultural amendments or lime. The department after public hearing and as authorized under ORS 183.310 to 183.550, may further define and may prescribe "first purchaser" for practical and reasonable rules necessary to effectuate the provisions of this section.

(4) The provisions of ORS 561.450 also apply to any person who refuses to pay inspection fees

due the department.

SECTION 66. ORS 634.016 is amended to read:

634.016. (1) Every pesticide, including each formula or formulation, manufactured, compounded, delivered, distributed, sold, offered or exposed for sale in this state shall be registered each year with the department.

(2) Every device, manufactured, delivered, distributed, sold, offered or exposed for sale in this state, shall be registered each year with the department.

(3) The registration shall be made by the manufacturer or a distributor of the pesticide.

(4) The application for registration shall include:

(a) The name and address of the registrant.

(b) The name and address of the manufacturer if different than the registrant.

(c) The brand name or trade-mark of the pesticide.

(d) A specimen or facsimile of the label of each pesticide, and each formula or formulation, for which registration is sought, except for annual renewals of the registration when the label remains unchanged.

(e) The correct name and total percentage of each active ingredient.

(f) The total percentage of inert ingredients.

(5) The application for registration shall be accompanied by a registration fee to be established by the department for each pesticide, and each formula or formulation, which shall not exceed $40 for each such pesticide, or each formula or formulation.

(6) The department, at the time of application for registration of any pesticide **or after a declaration of a ground water management area under section 36 of this 1989 Act** may:

(a) Restrict or limit the manufacture, delivery, distribution, sale or use of any pesticide in this state.

(b) Refuse to register any pesticide which is highly toxic for which there is no effective antidote under the conditions of use for which such pesticide is intended or recommended.

(c) Refuse to register any pesticide for use on a crop for which no finite tolerances for residues of such pesticide have been established by either the department or the Federal Government.

(d) In restricting the purposes for which pesticides may be manufactured, delivered, distributed, sold or used, or in refusing to register any pesticide, give consideration to:

(A) The damage to health or life of humans or animals, or detriment to the environment, which might result from the distribution and use of such pesticide.

(B) Authoritative findings and recommendations of agencies of the Federal Government and of any advisory committee or group established under ORS 634.306 (10).

(C) The existence of an effective antidote under known conditions of use for which the material is intended or recommended.

(D) Residual or delayed toxicity of the material.

(E) The extent to which a pesticide or its carrying agent simulates by appearance and may be mistaken for human food or animal feed.

(7) The provisions of this section shall not, except as provided herein, apply to:

(a) The use and purchase of pesticides by the Federal Government or its agencies.

(b) The sale or exchange of pesticides between manufacturers and distributors.

(c) Drugs, chemicals or other preparations sold or intended for medicinal or toilet purposes or for use in the arts or sciences.

(d) Common carriers, contract carriers or public warehousemen delivering or storing pesticides, except as provided in ORS 634.322.

SECTION 67. ORS 459.005 is amended to read:

459.005. As used in ORS 275.275, 459.005 to 459.385, unless the context requires otherwise:

(1) "Affected person" means a person or entity involved in the solid waste collection service process including but not limited to a recycling collection service, disposal site permittee or owner, city, county and metropolitan service district.

(2) "Area of the state" means any city or county or combination or portion thereof or other geographical area of the state as may be designated by the commission.

(3) "Board of county commissioners" or "board" includes county court.

(4) "Collection franchise" means a franchise, certificate, contract or license issued by a city or county authorizing a person to provide collection service.

(5) "Collection service" means a service that provides for collection of solid waste or recyclable material or both.

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

(7) "Conditionally exempt small quantity generator" means a person that generates a hazardous waste but is conditionally exempt from substantive regulation because the waste is generated in quantities below the threshold for regulation adopted by the commission pursuant to ORS 466.020.

[*(7)*] **(8)** "Department" means the Department of Environmental Quality.

[*(8)*] **(9)** "Disposal site" means land and facilities used for the disposal, handling or transfer of or resource recovery from solid wastes, including but not limited to dumps, landfills, sludge lagoons, sludge treatment facilities, disposal sites for septic tank pumping or cesspool cleaning service, transfer stations, resource recovery facilities, incinerators for solid waste delivered by the public or by a solid waste collection service, composting plants and land and facilities previously used for solid waste disposal at a land disposal site; but the term does not include a facility subject to the permit requirements of ORS 468.740; a landfill site which is used by the owner or person in control of the premises to dispose of soil, rock, concrete or other similar nondecomposable material, unless the site is used by the public either directly or through a solid waste collection service; or a site operated by a wrecker issued a certificate under ORS 822.110.

(10) "Hazardous waste" has the meaning given that term in ORS 466.005.

(11) "Hazardous waste collection service" means a service that collects hazardous waste from exempt small quantity generators and from households.

(12) "Household hazardous waste" means any discarded, useless or unwanted chemical, material, substance or product that is or may be hazardous or toxic to the public or the environment and is commonly used in or around households which may include, but is not limited to, some cleaners, solvents, pesticides, and automotive and paint products.

[*(9)*] **(13)** "Land disposal site" means a disposal site in which the method of disposing of solid waste is by landfill, dump, pit, pond or lagoon.

[*(10)*] **(14)** "Land reclamation" means the restoration of land to a better or more useful state.

[*(11)*] **(15)** "Local government unit" means a city, county, metropolitan service district formed under ORS chapter 268, sanitary district or sanitary authority formed under ORS chapter 450, county service district formed under ORS chapter 451, regional air quality control authority formed under ORS 468.500 to 468.530 and 468.540 to 468.575 or any other local government unit responsible

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY INTEROFFICE MEMORANDUM

DATE: May 9, 1990

TO: Environmental Quality Commission

FROM: Greg Pettit, Hearings Officer

SUBJECT: Hearing Report and Response to Testimony: May 3, 1990 in Portland

Proposed Adoption of Interim Standards for Maximum Measurable Levels of Contaminants in Groundwater.

A public hearing was held in Portland at the Department of Environmental Quality Headquarters at 1:00 p.m. on May 3, 1990. Advance notice of the hearing was sent to over 700 persons on the groundwater interested persons mailing list. Six persons other than Department staff attended the hearing. No one submitted testimony. There was an informal discussion of the use of the interim standards.

Written Testimony was received from John Neely of Eugene Oregon. The Department believes that this testimony was submitted in response to the public notice. The testimony addressed sewer construction issues in the Santa/Clara River Road area of Eugene and was not pertinent to the proposed rules.

Groundwater Protection Act Summary

HB 3515 Sections 17 through 66

1. Goal: Section 18 of the Act establishes the following groundwater quality protection goal.

   "it is the goal of the people of the State of Oregon to prevent contamination of Oregon's groundwater resource while striving to conserve and restore this resource and to maintain the high quality of Oregon's groundwater resource for present and future uses.

   Following sections of the Act establish this goal in statutes governing the operations of the State Highway Division, Health Division, Water Resources Department, Department of Agriculture, DEQ, Soil and Water Conservation Districts, Strategic Water Management Group, Department of Geology and Mineral Industries, and Department of Land Conservation and Development.

2. Policies: Section 19 of the Act establishes a number of policies that shall guide the activities of the State in managing and using it's groundwater resource. In summary those policies are:

   a. Public education, research, and demonstration projects shall be utilized.

   b. All State agency programs and rules shall be consistent with the goal.

   c. State-wide groundwater characterization and identification programs must be conducted.

   d. Programs requiring the use of best practicable management practices shall be established.

   e. Groundwater contamination levels shall be used to trigger specific governmental actions designed to prevent those levels from being exceeded or to restore groundwater quality to those levels.

   f. All groundwater of the State must be protected for both existing and future beneficial uses so that they may continue to provide for whatever uses the natural quality would allow.

3. Strategy: Section 20 establishes a groundwater protection strategy to be implemented by the Strategic Water Management Group. This strategy includes such elements as: interagency coordination; promoting public awareness and education; coordinate the development of local groundwater protection plans, including well head protection; awarding grants; and establishing a centralized repository for groundwater information.

4. Grants: Sections 21 and 22 establish the conditions under which the Strategic Water Management Group can award grants for groundwater projects. Not more than one third of the funding available can be used for projects directly related to issues pertaining to a groundwater management area. This insures that the emphasis will remain on preventative programs and that all the resources will not be spent in responding to problems.

5. Groundwater Standards: Section 24 establishes a technical advisory committee whose function is to develop criteria and methods for the Environmental Quality Commission to use in adopting by rule maximum levels of contaminants in groundwater that shall be protective of public health and the environment.

   Section 25 requires the Environmental Quality Commission (EQC) to initiate rulemaking within 90 days of receiving the recommendations of the advisory committee.

   Section 26 requires the EQC to adopt within 90 days of the effective date of the Act federal drinking water standards as interim numerical standards for maximum measurable levels of contaminants in groundwater. These standards shall be used until final maximum measurable levels for contaminants in groundwater are adopted.

6. SWMG Staff Support: Section 27 states that the Department of Environmental Quality shall provide staff for project oversight and day to day operations of the Strategic Water Management Group in implementing most of the activities authorized in the Act.

7. Monitoring Program: Section 29 requires the Department of Environmental Quality to conduct a state-wide groundwater monitoring and assessment program.

8. Domestic Well Testing: Section 30 requires that domestic water supply wells be tested for nitrates and bacteria by the seller when real estate property is sold, and the results are to be submitted to the Health Division.

9. Area of Groundwater Concern: Sections 31 through 33 establish the conditions for the declaration of an area of groundwater concern. Basically, such an area shall be declared when contaminants are found in groundwater and result, at least in part, from nonpoint sources.

Section 34 establishes actions to be taken by Strategic Water Management Group upon the declaration of an area of groundwater concern. Those are:

1. Appoint a local advisory committee.

2. Focus research and public education on area.

3. Provide for necessary monitoring.

4. Assist local advisory committee in developing an action plan.

5. In absence of local advisory committee, develop action plan.

10. Local Groundwater Management: Section 35 contains the conditions and procedures for establishing local groundwater management committees and developing local action plans. The action plan developed by the local groundwater management committee for areas of groundwater concern would rely primarily on voluntary programs.

11. Groundwater Management Area: Sections 36 through 38 contain the conditions under which a groundwater management area would be declared. For all but nitrates this would occur when groundwater contaminant concentrations reach 50% of the levels established in Section 25 or 26 of the Act. For nitrates the trigger level would be 100% of the Section 25 or 26 level for 2 years after the effective date of the Act then it would drop to 70% of the level.

12. Local Committee Role: The role of the local groundwater management committee when a groundwater management area has been declared is established in Sections 39 and 40.

13. Groundwater Management Area Action Plan: Sections 41 through 43 contain the procedures and requirements for the development of an action plan for a groundwater management area. When an area moves from an area of groundwater concern to a groundwater management area, the lead role in the development and implementation of an action plan moves from the local level to the State. The Strategic Water Management Group shall designate a lead agency for the development of a groundwater management area action plan. Such an action plan could contain mandatory actions. Because of the severity of the problem at this point, the implementation of regulatory programs by the appropriate authorities may be necessary to maintain or restore groundwater quality within levels adequate to protect beneficial uses.

    The process for the development of a groundwater management area action plan includes ample opportunity for public review and comment.

14. Repealing Groundwater Management area: The criteria for repealing a declaration of a groundwater management area is established in Section 44.

15. Amendments to existing statutes: Sections 46 through 66 primarily contain amendments to existing statutes for a number of agencies to ensure the coordinated implementation of the Act and its goals and policies. These include requirements for consistency with the goal contained in Section 18 of the Act, and requirements for reporting groundwater information to the groundwater information repository.

16. Strategic Water Management Group: Section 52 establishes the Strategic Water Management Group role in coordinating the interagency management of groundwater. It requires the preparation of a biennial report to the legislature on the status of groundwater in Oregon.

17. Exempt Uses of Water: Sections 54, 55, and 57 establish authority for the Water Resources Commission to institute control over groundwater uses exempted from requirements for application for permits under ORS 537.545. Such controls could be implemented either through the classification process, or in a groundwater management area.

18. Well abandonment: Section 59 establishes authority for the Water Resources Commission to order the permanent abandonment of a well that is causing pollution of the groundwater.

19. Well Construction, Operation, and Maintenance: Section 60 establishes authority for the Water Resources Commission to require antibacksiphoning devices.

20. Fertilizer Inspection Fee: Section 65 increases the fertilizer inspection fee from 20 to 45 cents per ton, 25 cents of which will be used for funding research on the interaction of pesticides or fertilizers and groundwater. It is estimated this will generate $250,000 per biennium for those research activities.

21. Pesticide Use: Section 66 establishes that the Department of Agriculture may restrict a pesticide use or take a number of other actions upon the declaration of a groundwater management area.

NEIL GOLDSCHMIDT
GOVERNOR

Environmental Quality Commission

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

REQUEST FOR EQC ACTION

Meeting Date: May 25, 1990
Agenda Item: A-4(b)
Division: Water Quality
Section: Industrial Waste

SUBJECT:

Water Quality Permit Fees: Proposed Industrial Source Fee Increase to Help Fund Groundwater Program

PURPOSE:

The Department of Environmental Quality (Department) proposes to change the fee schedule found in OAR 340-45-075 by increasing the fees sufficient to generate an additional annual revenue of $38,500.

ACTION REQUESTED:

___ Work Session Discussion
- ___ General Program Background
- ___ Program Strategy
- ___ Proposed Policy
- ___ Potential Rules
- ___ Other: (specify)

___ Authorize Rulemaking Hearing

Proposed Rules (Draft)	Attachment ___
Rulemaking Statements	Attachment ___
Fiscal and Economic Impact Statement	Attachment ___
Draft Public Notice	Attachment ___

_X_ Adopt Rules

Proposed Rules (Final Recommendation)	Attachment A
Rulemaking Statements	Attachment B
Fiscal and Economic Impact Statement	Attachment C
Public Notice	Attachment D

___ Issue Contested Case Decision/Order
Proposed Order Attachment ___

___ Other: (specify)

DESCRIPTION OF REQUESTED ACTION:

The Department is requesting the Environmental Quality Commission (Commission) to adopt a modified fee schedule with fee increases sufficient to increase fee revenues by at least $38,500, as directed by the Legislature. The additional fees will be used to fund a position in the groundwater program.

AUTHORITY/NEED FOR ACTION:

___ Required by Statute: _____ Attachment ___
Enactment Date: _____
_X_ Statutory Authority: ORS 468.065 Attachment E
_X_ Amendment of Existing Rule: OAR 340-45-075 Attachment A
___ Implement Delegated Federal Program:
_____ Attachment ___

___ Other: Attachment ___

_X_ Time Constraints: Rules need to be adopted before July 1, 1990, in order to be incorporated into the annual fees due during July.

DEVELOPMENTAL BACKGROUND:

___ Advisory Committee Report/Recommendation Attachment ___
_X_ Hearing Officer's Report/Recommendations Attachment F
___ Response to Testimony/Comments Attachment ___
___ Prior EQC Agenda Items: **Hearings authorization March 1, 1990, not attached.**
Attachment ___
___ Other Related Reports/Rules/Statutes:
Attachment ___
___ Supplemental Background Information Attachment ___

REGULATED/AFFECTED COMMUNITY CONSTRAINTS/CONSIDERATIONS:

This proposed fee increase will affect only the permittees who will be required to provide the additional revenue. However, the purpose of this fee increase is to help fund implementation of the Groundwater Protection Act of 1989. All Oregonians will benefit from the program designed to protect groundwaters in the State. At the public hearing held April 4, 1990, there were only two in attendance. No formal testimony was given. There was general support for the fee schedule as proposed. The only written

testimony received was from the Northwest Environmental Defense Center (NEDC) and Oregon Cherry Growers, Inc. NEDC suggested that the whole fee structure of the Industrial Waste Program be overhauled in order to increase fees to support a stronger program. Testimony from the Oregon Cherry Growers, Inc. suggested that the DEQ should live within it's existing budget and that an increase in fees should be the last resort.

PROGRAM CONSIDERATIONS:

The total amount of revenue to be generated from fee increases is $154,000 for the biennium. This amount has been divided, with 50% to be raised from the municipal permittees and 50% to be raised from industrial permittees. The purpose of these proposed changes in the rules is to modify the fee schedule for industrial sources. Those fee changes necessary for the municipal sewage program are being addressed in a separate agenda item.

ALTERNATIVES CONSIDERED BY THE DEPARTMENT:

All of the alternatives considered relate only to the method of allocating the necessary revenue increases over the range of permittees. The first decision was to divide the required revenue to be generated evenly between the industrial and municipal programs as previously indicated. There are several different methods which could be used to increase the revenue from the existing industrial permittees, as follows:

1. Determine which permittees are most likely to impact groundwater because of their method of wastewater disposal or their location in relation to critical groundwater areas. Impose a permit surcharge only on those permittees. This would be very time consuming and the resources necessary to collect the data would probably exceed the resources which could be supported from the fees generated.

2. Increase the permit processing fees as well as the annual compliance determination fees in order to collect the necessary revenue. Since the number of applications to be processed each year is unpredictable, it is difficult to anticipate the revenue which could be generated from permit applications. Revenue from the annual compliance determination fees is predictable.

3. Impose the fee increases only on the Water Pollution Control Facilities (WPCF) permittees since they dispose of all wastewater on land rather than discharging to surface waters. This method of allocation would make the annual fees for WPCF permits over 50% greater than like facilities which have a National Pollutant Discharge Elimination System

(NPDES) permit to discharge to surface waters. In addition, the chemicals and raw materials used by many NPDES permittees and the resulting wastewater treatment sludge that must be disposed provide many possible avenues for groundwater contamination. Therefore, industrial permittees should not be excluded from the fee increase.

4. Increase annual fees across the board so that all industrial waste permittees fees are increased by the same percentage. This would be a 35% increase in annual fees for all industrial permittees.

5. Increase the annual fees across the board for industrial permittees but have the increase for large complex sources a little larger than for the smaller non-complex sources. Although some categories of small sources can cause severe groundwater problems, generally the potential for groundwater contamination from larger more complex sources is greater than for the smaller non-complex sources. For this alternative, the fee increase ranges from a 43% increase for major sources to a 20% increase for minor non-complex sources.

DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:

The Department recommends that the alternative listed as No. 5, above, be used in allocating the fee increases. It spreads the increase to all of the industrial permittees and requires a greater percentage increase for those categories of industries most likely to handle complex chemicals and generate waste waters which might contain pollutants which could affect groundwater. This alternative would produce the following changes in the fee schedule (see Attachment A):

Category (code)	Current Fees	Proposed Fees	Increase $	Increase %	No. Permits	Total Increase
IW-A, B, D1, E, F, H, K, L	$1,400	$2,000	$600	43	32	$19,200
IW-D2, G, J, M3	700	1,000	300	43	7	2,100
IW-N	300	400	100	33	129	12,900
IW-O	200	250	50	25	65	3,250
IW-M1	175	225	50	29	11	550
AG-A, IW-M2, Q	125	150	25	20	45	1,125
			Total		289	$39,125

CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE POLICY:

This type of a permit fee increase is consistent with Department policy.

ISSUES FOR COMMISSION TO RESOLVE:

Since the Groundwater Protection Act of 1989 and the method of funding is legislatively mandated, the only issue for the Commission to resolve is the method of fee increase allocation.

INTENDED FOLLOWUP ACTIONS:

Once the revised fee schedule has been adopted by the Commission it will be filed with the Secretary of State to become effective immediately. This will allow it to be used for the annual fee invoices to be mailed prior to the July 1, 1990 deadline.

Approved:

Section: _____

Division: _____

Director: _____

Report Prepared By: Charles K. Ashbaker

Phone: (503) 229-5325

Date Prepared: April 12, 1990

CKA:JET:crw
IW\WC6543
5/7/90

Attachment A

Modification of Fee Schedule Found in OAR 340-45-075

Note: Information added is underlined and information deleted is in [~~braekets~~].

Permit Fee Schedule
340-45-075 (1) . . .

(2) . . .

(3) Annual Compliance Determination Fee Schedule:

(a) . . .

(b) Industrial, Commercial and Agricultural Sources:

(A) Major pulp, paper, paperboard, hardboard, and other fiber pulping industry . . . . . [~~$1400~~] $2000

(B) Major sugar beet processing, potato and other vegetable processing, and fruit processing industry . . . . . [~~$1400~~] $2000

(C) [~~Fish~~] Seafood Processing Industry:
(i) Bottom fish, crab, and/or oyster processing [~~$175~~] $225
(ii) Shrimp processing . . . . . [~~$175~~] $225
(iii) Salmon and/or tuna processing . . . . . [~~$300~~] $400

(D) Electroplating industry (excludes facilities with do anodizing only):
(i) Rectifier output capacity of 15,000 Amps or more . . . . . .[~~$1400~~] $2000
(ii) Rectifier output capacity of less than 15,000 Amps but more than 5000 Amps . . . . . [~~$700~~] $1000

(E) Primary Aluminum Smelting . . . . . .[~~$1400~~] $2000

(F) Primary smelting and/or refining of non-ferrous metals utilizing sand chlorination separation facilities . [~~$1400~~] $2000

(G) Primary smelting and/or refining of ferrous and non-ferrous metals not elsewhere classified above . . . . [~~$700~~] $1000

(H) Alkalies, chlorine, pesticide, or fertilizer manufacturing with discharge of process waste waters [~~$1400~~] $2000

(I) Petroleum refineries with a capacity in excess of 15,000 barrels per day discharging process waste water . . .[~~$1400~~] $2000

(J) Cooling water discharges in excess of 20,000 BTU/sec . . . . . .[~~$1400~~] $2000

(K) Milk products processing industry which processes in excess of 250,000 pounds of milk per day . . . . . [~~$1400~~] $2000

(L) Major mining operations . . . . . .[~~$1400~~] $2000

(M) Small mining operations [~~less-than-70,000-cubic-yards per-year,~~] which:

(i) Discharge directly to public waters . . . . [~~$175~~] $225

(ii) Do not discharge to public water . . . . . [~~$125~~] $150

(iii) Use cyanide or other toxic chemicals for extracting precious metals . . . . . .[~~$700~~] $1000

(N) All facilities not elsewhere classified with disposal of process waste water . . . . . .[~~$300~~] $400

(O) All facilities not elsewhere classified which dispose of non-process waste waters (i.e. small cooling water discharges, boiler blowdown, filter backwash, log ponds, etc,) . . [~~$200~~] $250

(P) Dairies and other confined feeding operations on individual permits. . . . . [~~$125~~] $150

(Q) All facilities which dispose of waste waters only by evaporation from watertight ponds or basins . . . . . .[~~$125~~] $150

Attachment B

RULE MAKING STATEMENTS

STATEMENT OF NEED FOR RULEMAKING

(1) Legal Authority:

This increase in fees is made pursuant to ORS 468.065.

(2) Need for the Rule:

The 1989 legislature adopted the Groundwater Protection Act of 1989. In determining the funding for the Department's role in administering the Act, the Ways and Means Committee required the Department to raise permit fees by $154,000 for the biennium. The purpose of this rule change it to revise the fee schedule with the required fee increases.

(3) Principal Documents Relied Upon in this Rulemaking:

HB 3515, passed by 1989 Oregon Legislature.

ORS 468.065

OAR Chapter 340 Division 45

These documents are available for review during normal business hours at the Department's office, 811 SW Sixth, Portland, Oregon, 5th floor.

LAND USE COMPATIBILITY STATEMENT

These permit fee increase have no effect on land use.

Public comment on any land use issue involved is welcome and may be submitted in the same fashion as indicated for testimony in this notice.

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

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

Prepared by: Charles K. Ashbaker
Phone Number: (503)229-5325

Attachment C

FISCAL AND ECONOMIC IMPACT

These proposed permit fee increases will have a fiscal impact on all industrial permittees which have individual permits. The average fee increase will be 35%, ranging between 20% for the small minor sources to 43% to the major sources. The actual fee increases will range from $25 per year from the small minor sources to $600 per year for the major industrial sources. It is not likely that the increase of fees will have a significant economic impact on small business or any source.

Prepared by: Charles K. Ashbaker
Phone Number: (503)229-5325
Date Typed: January 19, 1990

SED 434
(1/1/87)

NOTICE OF PROPOSED RULEMAKING HEARING

AGENCY: Department of Environmental Quality

The above named agency gives notice of hearing.

HEARING(S) TO BE HELD:

Date:	Time:	Location:
April 4, 1990	1:00 pm	DEQ Offices, 811 S.W. Sixth Portland, Room 4A

Hearings Officer(s): Charles K. Ashbaker

Pursuant to the statutory authority of ORS 468.065

the following action is proposed:

ADOPT:

AMEND: OAR 340-45-075 Permit Fee Schedule

REPEAL:

SUMMARY: In order to fund a portion of the implementation of the Groundwater Protection Act of 1989, adopted by the 1989 Legislature, the permit fees for industrial permits will be increased to raise an additional $38,500 in annual revenue. Annual Compliance Determination fees will be increased an average of 35%.

Interested persons may comment on the proposed rules orally or in writing at the hearing. Written comments received by 5 pm April 12, 1990 will also be considered. Written comments should be sent to and copies of the proposed rulemaking may be obtained from:

AGENCY: Department of Environmental Quality
ADDRESS: 811 SW Sixth
Portland, OR 97204

ATTN: Charles K. Ashbaker
PHONE: (503) 229-5325

Signature Date

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

REVISION OF WATER QUALITY PERMIT FEE SCHEDULE FOR INDUSTRIAL PERMITTEES
NOTICE OF PUBLIC HEARING

Hearing Date: April 04, 1990
Comments Due: April 12, 1990

WHO IS AFFECTED: All industrial and agricultural facilities with individual wastewater permits issued by the Department of Environmental Quality.

WHAT IS PROPOSED: The Department of Environmental Quality is proposing to amend OAR 340-45-075 Permit Fee Schedule. In order to provide partial funding for implementation of the Groundwater Protection Act of 1989, the Department is proposing to increase annual compliance determination fees for industrial and agricultural sources.

WHAT ARE THE HIGHLIGHTS: The annual compliance determination fees will be the only fees increased. The increase will range between $25 per year for minor sources to $600 per year for major industrial sources. The Department intends to have the fee increases reflected on the 1990-91 annual fees which will be invoiced in July 1990.

HOW TO COMMENT: Copies of the complete proposed rule package may be obtained from the Water Quality Division in Portland (811 S.W. Sixth Avenue). For further information contact Charles K. Ashbaker at (503) 229-5325.

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

TIME: 1:00 p.m.

DATE: April 4, 1990

PLACE: DEQ Offices, Fourth Floor, Room 4A
1811 S.W. Sixth Avenue, Portland, Oregon

Oral and written comments will be accepted at the public hearing. Written comments may be sent to the DEQ Water Quality Division, 811 S.W. Sixth Avenue, Portland, Oregon 97204, but must be received by no later than 5:00 p.m., April 12, 1990.

WHAT IS THE NEXT STEP: After public hearing the Environmental Quality Commission may adopt rule amendments identical to the proposed amendments, adopt modified rule amendments on the same subject matter, or decline to act. The Commission's deliberation should come in April or May as part of the agenda of a regularly scheduled Commission meeting.

A Statement of Need, Fiscal and Economic Impact Statement, and Land Use Consistency Statement are attached to this notice.

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

FOR FURTHER INFORMATION:
Contact the person or division identified in the public notice by calling 229-5696 in the Portland area. To avoid long distance charges from other parts of the state, call 1-800-452-4011.

service who shall serve at the pleasure of the director. The deputy director shall have full authority to act for the director, subject to directions of the director. The appointment of the deputy director shall be by written order, filed with the Secretary of State.

(2) The deputy director shall receive such salary as may be provided by law or, if not so provided, as may be fixed by the director, and shall be reimbursed for all expenses actually and necessarily incurred by the deputy director in the performance of the official duties of the deputy director. [1973 c.291 §2]

Note: 468.050 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 468 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

468.055 Contracts with Health Division. In addition to the authority granted under ORS 190.003 to 190.110, when authorized by the commission and the Health Division, the director and the Assistant Director for Health may contract on behalf of their respective agencies for the purposes of carrying out the functions of either agency, defining areas of responsibility, furnishing services or employes by one to the other and generally providing cooperative action in the interests of public health and the quality of the environment in Oregon. Each contracting agency is directed to maintain liaison with the other and to cooperate with the other in all matters of joint concern or interest. [Formerly 449.062]

468.060 Enforcement of rules by health agencies. On its own motion after public hearing, the commission may grant specific authorization to the Health Division or to any county, district or city board of health to enforce any rule of the commission relating to air or water pollution or solid wastes. [Formerly 449.064]

468.065 Issuance of permits; content; fees; use. Subject to any specific requirements imposed by ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.405, 454.425, 454.505 to 454.535, 454.605 to 454.745 and this chapter:

(1) Applications for all permits authorized or required by ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.405, 454.425, 454.505 to 454.535, 454.605 to 454.745 and this chapter shall be made in a form prescribed by the department. Any permit issued by the department shall specify its duration, and the conditions for compliance with the rules and standards, if any, adopted by the commission pursuant to ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.405, 454.425, 454.505 to 454.535, 454.605 to 454.745 and this chapter.

(2) By rule and after hearing, the commission may establish a schedule of permit fees for permits issued pursuant to ORS 459.205, 468.310, 468.315, 468.555 and 468.740. The permit fees contained in the schedule shall be based upon the anticipated cost of filing and investigating the application, of issuing or denying the requested permit, and of an inspection program to determine compliance or noncompliance with the permit. The permit fee shall accompany the application for the permit.

(3) The department may require the submission of plans, specifications and corrections and revisions thereto and such other reasonable information as it considers necessary to determine the eligibility of the applicant for the permit.

(4) The department may require periodic reports from persons who hold permits under ORS 448.305, 454.010 to 454.040, 454.205 to 454.225, 454.405, 454.425, 454.505 to 454.535, 454.605 to 454.745 and this chapter. The report shall be in a form prescribed by the department and shall contain such information as to the amount and nature or common description of the pollutant, contaminant or waste and such other information as the department may require.

(5) Any fee collected under this section shall be deposited in the State Treasury to the credit of an account of the department. Such fees are continuously appropriated to meet the administrative expenses of the program for which they are collected. The fees accompanying an application to a regional air pollution control authority pursuant to a permit program authorized by the commission shall be retained by and shall be income to the regional authority. Such fees shall be accounted for and expended in the same manner as are other funds of the regional authority. However, if the department finds after hearing that the permit program administered by the regional authority does not conform to the requirements of the permit program approved by the commission pursuant to ORS 468.555, such fees shall be deposited and expended as are permit fees submitted to the department. [Formerly 449.733; 1975 c.445 §7; 1983 c.144 §2; 1983 c.740 §182]

468.070 Denial, modification, suspension or revocation of permits. (1) At any time, the department may refuse to issue, modify, suspend, revoke or refuse to renew any permit issued pursuant to ORS 468.065 if it finds:

(a) A material misrepresentation or false statement in the application for the permit.

(b) Failure to comply with the conditions of the permit.

Attachment F

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY INTEROFFICE MEMORANDUM

DATE: April 12, 1990

TO: Environmental Quality Commission

FROM: Kent Ashbaker, Water Quality

SUBJECT: Hearings Officer Report - Modified Industrial Source Fee Schedule (OAR 340-45-075) to Help Fund Groundwater Program

The Commission authorized a public hearing on these proposed rule modifications at their regular meeting on March 2, 1990. A Hearing notice was mailed on March 5, 1990. The hearing notice was sent to the Department's rule mailing list as well as to each industrial permittee. In addition, a news release was issued on April 2, 1990.

A public hearing on the proposed rule modification was held in the DEQ conference room at 1:00 pm on April 4, 1990. There were two people in attendance, as follows:

Tom Donaca, Associated Oregon Industries
John Piccininni, Bonneville Power Administration.

They entered into discussions about the proposed rules but neither offered formal testimony. They seemed to be satisfied with the rules as drafted.

The hearing record was left open until April 12, 1990. The only testimony received was from the Northwest Environmental Defense Center (NEDC) and from Oregon Cherry Growers, Inc. The NEDC suggested that the fees did not go far enough. Rather than piecemeal fee increased, they suggested that "a long-term fee increase, enacted over a five-year period and incorporating the Department's true costs, would have many benefits". The Oregon Cherry Growers, Inc. suggested that the DEQ should learn to live within it's budget, even if they have to cut costs. An increase in fees should be the last resort.

NEIL GOLDSCHMIDT
GOVERNOR

Environmental Quality Commission

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

REQUEST FOR EQC ACTION

Meeting Date: May 25, 1990
Agenda Item: A-4(c)
Division: Water Quality
Section: Industrial Waste

SUBJECT:

Water Quality Rules: Adoption of Rule Changes Affecting Permits and Approvals for Industrial and Agricultural Sources.

PURPOSE:

There are several proposed minor modifications to existing water quality rules. A brief description of each follows:

(1) Make OAR Chapter 340 Division 45 consistent with Division 14 by adding language to clarify that a National Pollutant Discharge Elimination System (NPDES) permit will not expire until final action is taken on the renewal application, if the renewal application has been submitted in a timely manner.

(2) Make permitting rules and confined animal feeding or holding rules consistent with HB 3445, adopted by the 1989 legislature.

(3) Identify the circumstances under which the Director can issue a Stipulated Consent Order in lieu of, or in addition to, a permit.

(4) Clarify certain fee requirements pertaining to General Permits and Special Permits. Clarify the category of "major mining operation."

(5) Exempt small impoundments and oil/water separators from the requirement to have engineering plans approved by the Department of Environmental Quality (Department).

ACTION REQUESTED:

___ Work Session Discussion
- ___ General Program Background
- ___ Program Strategy
- ___ Proposed Policy
- ___ Potential Rules
- ___ Other: (specify)

__ Authorize Rulemaking Hearing

Proposed Rules (Draft)	Attachment __
Rulemaking Statements	Attachment __
Fiscal and Economic Impact Statement	Attachment __
Draft Public Notice	Attachment __

_X_ Adopt Rules

Proposed Rules (Final Recommendation)	Attachment A
Rulemaking Statements	Attachment B
Fiscal and Economic Impact Statement	Attachment C
Public Notice	Attachment D

___ Issue Contested Case Decision/Order

Proposed Order	Attachment ___

___ Other: (specify)

DESCRIPTION OF REQUESTED ACTION:

The Department is requesting the Environmental Quality Commission (Commission) to adopt minor rule changes in the water quality rules. Since there are several rule changes which are independent of each other, the Commission may adopt all or only a portion of the entire rule package.

AUTHORITY/NEED FOR ACTION:

___ Required by Statute: _____ Attachment ___
Enactment Date: _____
_X_ Statutory Authority: ORS 468.020, 730, 740 Attachment ___
_X_ Amendment of Existing Rule: Div. 14,45,51,52 Attachment ___
___ Implement Delegated Federal Program:
_____ Attachment ___

___ Other: Attachment ___

___ Time Constraints: (explain)

DEVELOPMENTAL BACKGROUND:

___ Advisory Committee Report/Recommendation — Attachment ___
_X_ Hearing Officer's Report/Recommendations — Attachment _E_
___ Response to Testimony/Comments — Attachment ___
_X_ Prior EQC Agenda Items: **Hearings Authorization March 1, 1990, not attached.** — Attachment ___
___ Other Related Reports/Rules/Statutes: — Attachment ___
___ Supplemental Background Information — Attachment ___

REGULATED/AFFECTED COMMUNITY CONSTRAINTS/CONSIDERATIONS:

For the most part, these rule changes are not controversial and should receive support from the regulated community and environmental advocates. At the public hearing held April 4, 1990, seven people were in attendance. There was an exchange of questions but no formal testimony was given. There was general support for the rule modifications. The only written testimony was from the Northwest Environmental Defense Center (NEDC). They didn't have any problems with the rules as proposed but suggested that the Department add additional rules to strengthen the confined animal feeding operations (CAFO) program.

PROGRAM CONSIDERATIONS:

Attached to this report as Attachment A is a discussion of each of the proposed rules. Attachment A explains the existing problem which caused the Department to propose rule changes, the various alternatives considered, and the proposed rules changes.

DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:

It is recommended that the Commission adopt the rules as proposed. Most of the rule changes are necessary in order to provide consistency and clarity.

CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE POLICY:

All of these proposed rule changes are consistent with current policies.

ISSUES FOR COMMISSION TO RESOLVE:

1. Even though ORS 183.430 provides for expiring permits to remain in effect until the Department takes final action on the renewal application, should this issue be made more clear to the regulated community by including it in OAR Chapter 340 Division 45?

2. Periodically the Department uses stipulated consent orders in lieu of or in addition to water quality permits. Should this practice be defined by rule?

3. Should those facilities covered by general permits for their wastewater disposal be required to pay a small annual fee if they are in a category which the Department determines needs a periodic inspection by the Department?

4. Should the list of those facilities not requiring submittal of engineering plans prior to construction be expanded to include small impoundments for non-hazardous wastes and small oil/water separators?

INTENDED FOLLOWUP ACTIONS:

If the Commission adopts these proposed rule changes, they will be filed with the Secretary of State to become effective immediately.

Approved:

Section: _____

Division: _____

Director: _____

Report Prepared By: Charles K. Ashbaker

Phone: 229-5325

Date Prepared: April 12, 1990

CKA:crw
IW\WC6547
May 8, 1990

Attachment A

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY INTEROFFICE MEMORANDUM

DATE: January 16, 1990

TO: Environmental Quality Commission

FROM: Kent Ashbaker

SUBJECT: PROPOSED CHANGES IN WATER QUALITY RULES

These are incidental rule changes which are needed in the water quality rules. There are minor changes in Division 14, 45, 51, and 52. This discussion will list the problem to be solved or other reason to change the rules. It will list the alternatives considered, if any, and will then show the proposed rule changes in context with the existing rules. Additions are underlined. Deletions are in [~~brackets~~].

Problem:

Oregon Administrative Rules Chapter 340, Division 14, establish the Department's general procedures for issuance, denial, modification, and revocation of permits. Rule 340-14-030 states that, "If a completed application for renewal of a permit is filed with the Department in a timely manner prior to the expiration date of the permit, the permit shall not be deemed to expire until final action has been taken on the renewal application to issue or deny a permit". This policy has been followed by the Department since permits were first issued. When the Department adopted specific rules for regulating the issuance of NPDES permits, found in OAR Chapter 340 Division 45, the language found in Division 14 concerning renewal of permits was inadvertently omitted. OAR 340-45-040 should be changed to include the omitted language.

Alternatives Considered:

The only alternative considered was to not propose the rule change. The Oregon Administrative Procedures, ORS 183.430, provides that licenses (permits) remain in effect until the agency takes final action on a renewal application. Since this requirement is statutory, adoption of an equivalent rule is probably not necessary. However, this practice would be more clear to those who are regulated by water quality rules, if the rule is adopted.

Proposal Changes:

Make the following addition to OAR 340-45-040:

OAR 340-45-040 The procedures for issuance of an NPDES permit shall apply to renewal of an NPDES permit and to modification requested by the permittee. If a completed application for renewal of a permit is filed with the Department in a timely manner prior to the expiration date of the permit, the permit shall not be deemed to expire until final action has been taken on the renewal application to issue or deny the permit.

Problem:

House Bill 3445, which was adopted by the 65th Oregon Legislative Assembly in 1989, requires the Department to issue a permit for confined animal feeding operations which does not expire. Oregon Administrative Rules, Division 14, limits the term of DEQ permits to a maximum of 10 years. A change must be made in the rules to be compatible with the new law.

Alternatives Considered:

none

Proposed Changes:

Add to OAR 340-14-015(2).

340-14-015 (1) . . .
(2) The duration of permits will be variable, but shall not exceed ten (10) years[.], except for permits issued to "confined animal feeding operations" pursuant to ORS 468.740 as amended by House Bill 3445. Those permits shall not expire, but may be revoked or modified by the director or may be terminated upon request by the permit holder.

Problem:

Division 51 Contains a definition of "Confined Animal Feeding Operation" which has been used since the rules were adopted in 1972. The 1989 Oregon Legislature adopted a new definition of Confined Animal Feeding Operation in HB 3445. The definition in Division 51 should be changed to be consistent with HB 3445.

Alternatives Considered:

none

Proposed Changes:

Change the definition in OAR 340-51-010(2).

340-51-010

. . .

(2) "Confined animal feeding [~~or holding~~] operation" means the concentrated confined feeding or holding of animals or poultry, including, but not limited to horse, cattle, sheep, or swine feeding areas, dairy confinement areas, slaughterhouse or shipping terminal holding pens, poultry and egg production facilities and fur farms, in buildings or in pens or lots where the surface has been prepared with concrete, rock or fi[~~e~~]brous material to support animals in wet weather or [where the concentration of animals has destroyed the vegetative cover and the natural infiltrative capacity of the soil] which have wastewater treatment works.

Other corrections of typographical errors:

340-51-030 . . .

(8) Western Oregon Livestock Association . . .

340-51-060 (1) . . .

(d) . . . washout in the event of failure . . .

Problem:

The regular permitting process does not lend itself to the coordinated approach desirable for environmental cleanups. A preferred process might be for the Director to issue a Stipulated Consent Order which addresses waste water disposal issues, contaminated soil disposal issues, and air quality issues all in the same document. Often the cleanup process, particularly motor vehicle fuel spills and leaks, needs to proceed faster than the permitting process allows.

There are also other instances where it would be desirable to issue a Stipulated Consent Order in addition to, or in lieu of, a permit. In the case of discharges from container nurseries, the nurserymen prefer to be regulated by order rather than by permit. There are many instances where the Department has issued an order in lieu of or in addition to a permit. However, it is not addressed in Water Quality rules.

Alternatives Considered:

The only alternative considered was to continue to issue Stipulated Consent Orders without the procedures being established by rule.

Proposed Changes:

In order to clarify a process for issuing stipulated consent orders in addition to a water permit or in lieu of a water permit, particularly for the disposal of wastewater associated with an environmental cleanup, the following addition to the Division 45 rules is suggested:

Stipulated Consent Orders

340-45-062 (1) The Director may issue a stipulated consent order in lieu of, or in addition to an NPDES permit or a WPCF permit where it is part of an enforcement action, wastewater disposal associated with the cleanup of a spill, or other activity which does not lend itself to the normal permitting process or permit term.
(2) The stipulated consent order may include, but not necessarily be limited to, compliance schedules, effluent limitations, monitoring and reporting requirements, and/or stipulated penalties.
(3) The term of a stipulated order, when used in lieu of a permit, shall not be longer than the term of the type of permit it is replacing.
(4) For the issuance of a stipulated consent order, the normal permitting procedures found in rules Chapter 340 Divisions 14 and 45 are not required but are optional. However, when the order is issued in lieu of an NPDES permit, a public notice announcement of that intended action will be distributed at least 30 days prior to finalizing the order, except for environmental cleanups or other instances where a delay in issuing the order may magnify the problem. In that instance, a public notice announcement may be issued at the same time the order is issued.
(5) When a stipulated order is used in lieu of a permit, the fee schedule for permits found in 340-45-075 shall apply.

Problem:

There has been some confusion about which permit fees are associated with the registration for coverage under a General Permit issued pursuant to OAR 340-45-055 and for a request for a Special Permit issued pursuant to OAR 340-14-050. Language needs to be added to the Permit Fee Schedule specifying that, unless the fees have been waived by rule, the Filing Fee is required for General Permit registration and for a request for a Special Permit. The rules also need to clarify that a Permit Processing Fee is not required for a General Permit. A small processing fee should be required for a Special Permit. There are two categories of General Permits for which the Department has waived the payment of a filing fee. No filing fees are required for small recreational gold dredges with an intake hose diameter of 4 inches of less. There are so many of these that the Department makes no attempt to keep track of them. They are given a copy of General Permit 700-J so that they know what the requirements are, but the do not need to register and they are not tracked in the database. Also, there are no filing fees required for small off-stream placer mining operations which qualify for General Permit 600 and which process less than 1500 cubic yards of material per year. These are generally small recreational or assessment operations. They are given a copy of General Permit 600 so that they know what the requirements are. These small operations are not tracked in the database.

Alternatives Considered:

The Department did consider requiring those applying for a General Permit to pay a permit processing fee as well as a filing fee. However, since the general permit has already been issued, applying it to any particular source does not require the same staff effort that would be required if an individual permit was to be written and processed. Therefore, requiring payment of a permit processing fee cannot be justified.

To date, no fees have been charged for Special Permits. However, the number of requests for special permits have accelerated the past year. There has been considerable staff time involved in drafting these "letter permits" especially for short term gasoline cleanup projects.

Proposed Changes:

Change the requirements for filing fees and processing fees found in OAR 340-45-075.

340-45-075 (1) Filing Fee. Unless waived by this rule, a [~~A~~] filing fee of $50 shall accompany any application for issuance, renewal, modification, or transfer of an NPDES [~~Waste Discharge~~] permit or [~~Water Pollution Control Facilities~~] WPCF permit, including registration for a General Permit pursuant to OAR 340-45-033 and request for a Special Permit pursuant to OAR 340-14-050.

(2) Application Processing Fee. An application processing fee varying between $75 and $2000 shall be submitted with each application, except that an application processing fee is not required to register for coverage under a General Permit. The amount of the fee shall depend on the type of facility and the required action as follows:
(a) New Applications . . .
. . .
(e) Special Permits issued pursuant to OAR 340-14-050 . . . .$75

Problem:

There has been some confusion with regards to the Annual Compliance Determination Fees for small mining operations and for those mining operations over 70,000 yards per year. The size limitation should be removed from the definition of small mining operation. Only those mining operations which are classified as "Major" under the Major Industrial Qualifying Factors in footnote 1 will pay the fee required for Major facilities. The Major Qualifying Factors listed in footnote 1 need to be expanded to include a definition of major mining or processing operations. In addition, the Department has waived the filing fees for small recreational suction dredges for gold mining and for small placer mining operations less than 1500 cubic yards per year. That fee waiver should be listed in the fee rules.

Alternatives Considered:

Under the qualifying factors for Major sources, retaining the 70,000 cubic yards per year size was considered. However, that production rate seemed small compared to the qualifying factors associated with other types of industrial sources. Therefore, in the qualifying factors, the number was changed to 100,000 cubic yards per year.

Proposed Changes:

Make minor changes to the industrial sources permit fee schedule found in OAR 340-45-075 as indicated.

(3) Annual Compliance Determination Fee Schedule:
(a) . . .
(b) Industrial, Commercial and Agricultural Sources (Source Type and Initial and Annual Fee):
(A) . . .
. . .
(M) Small mining operations [~~less than 70,000 cubic yards per year,~~] which:
(i) Discharge to public waters $175
(ii) Do not discharge to public waters $125
(iii) Use cyanide or other toxic chemicals for extracting precious metals $700
(N) All facilities . . . .
. . .
. . .
(4) Filing Fees Waived:
(a) Recreational suction dredges with an intake hose diameter of four inches or less which are covered by General Permit 700-J.
(b) Small placer mining operations less than 1500 cubic yards per year which are covered by General Permit 600.

1 Major Industries Qualifying Factors:
-1- Discharges large BOD loads; or
-2- Is a large metals facility; or
-3- Is a significant mining or ore processing facility, as follows:
(a) Placer mining operation which processes more than 100,000 cubic yards of material per year and which discharges treated process water.
(b) Cyanide heap leaching operation which processes more than 35,000 cubic yards of material per year.
(c) Conventional milling and flotation facility or non-cyanide leach facility which processes more than 50,000 cubic yards of ore per year.
[-3-]-4- Has significant toxic discharges; or
[-4-]-5- Has a treatment system which, if not operated properly . . .
[-5-]-6- Any other industry which the Department determines . . .

2 Major Domestic Qualifying Factors:
-1- . . .

Problem:

Normally, permittees covered by General Permits have not been assessed an Annual Compliance Determination Fee because the sources have not been routinely inspected. It has been determined that some of the categories of General Permits should be inspected at least once during the term of the permit. For those categories, a fee will be added which is one fifth (1/5) the amount of annual fee for like facilities on individual permits. Under the current fee schedule this will be $25 to $60 per year. Under a revised fee schedule which is being proposed under a separate rule package, the fees would range from $30 to $80. For the purposes of this fee schedule modification, the new proposed fees will be used in making the calculation.

Alternatives Considered:

(1) The annual compliance determination fees for general permittees could be the same as is assessed individual permittees. However, the inspection frequency is much less because they are considered minimal sources.

(2) A small annual compliance determination fee could be charged which is the same for all general permittees. Although this would simplify the fee schedule, some categories of general permittees are likely to be inspected more frequently than others so a varied schedule would more accurately portray Department costs.

(3) Establish a fee schedule which is a certain fraction (1/5) of the schedule the permittee would pay if on an individual permit. This is the alternative recommended.

Proposed Changes:

Minor clarification made in (P). New categories (R), (S), and (T) are added to the permit fee schedule in OAR 340-45-075.

340-45-075(3)(b)

(A) . . .

. . .

(P) Dairies and other confined feeding operations <u>on individual permits</u> . . .

(Q) . . .

<u>(R) General Permits 100-J, 200-J, 400-J, 500-J, 1000 - - - - - $50</u>

(S) General Permit 300-J - $30
(T) General Permits 900-J, 1200-J, 1300-J, 1400, 1500-J - - - $80

Note: General Permits 600 and 700-J do not require an annual compliance determination fee. By agreement, the Department of Geology and Mineral Industries will track compliance on the sources covered by those General Permits. General Permit 800 requires an annual fee of $25, which was established by the 1989 legislature, to be paid directly to the Oregon Department of Agriculture.

Problem:

Oregon Revised Statutes 468.742 requires plan approval by the Department for the construction, installation, or modification of disposal systems prior to construction. By rule, the Commission may exempt from this requirement the class or classes of disposal systems for which the Commission finds plan submittal and approval unnecessary or impractical.

There are certain small impoundments used for the treatment or disposal of cooling water or for the treatment or disposal of muddy wastewaters associated with small gravel mining operations, placer mining operations, or stormwater treatment systems. These small ponds do not normally need to be engineered but can be constructed by the site operator without plans as the need arises. An additional exemption for these types of treatment ponds should be included in the list of exemptions in 340-52-045.

Another type of water treatment facility not requiring plan review is the small oil/water separator. These are usually pre-manufactured units. They are often used for removing petroleum products in stormwater runoff from parking lots and other contaminated areas. Most of them are now installed without Department review.

Alternatives Considered:

The only alternative considered was to not add these two exemptions to the plan review rules.

Proposed Changes:

Two additional exemptions will be added to OAR 340-52-045 as (3) and (4). The existing (3), (4), and (5) will be renumbered as (5), (6), and (7).

340-52-045

. . .

(3) Small ponds used for cooling purposes or for the treatment and disposal of turbid wastewaters associated with gravel mining operations, placer mining operations, or, stormwater control systems are exempt from plan submittal under the following conditions:

(a) The pond will not have a dam or dike more than five(5) feet in height or have a surface area of more than 20,000 square feet; and

(b) Groundwater will be adequately protected without the need for an artificial liner; and

(c) No toxic chemicals or industrial wastewater other than cooling water, turbid waters, or turbid waters mixed with non-toxic coagulants will be discharged to the facility; and

(d) Disposal will be by recirculation, evaporation, and seepage with no direct discharge to surface waters.

(4) Small oil/water gravity separators are exempt, if they are designed to meet an effluent limit of no more than 10 milligrams per liter oil and grease and are designed to treat no more than 50 gallons per minute.

Renumber:

[~~(3)~~] (5) The Department may exempt other facilities. . .

[~~(4)~~] (6) The Department may exempt from submittal . . .

[~~(5)~~] (7) The Department may cancel in writing an . . .

Attachment B

RULE MAKING STATEMENTS

STATEMENT OF NEED FOR RULEMAKING

(1) Legal Authority:

Some of the rule modifications are made pursuant to the general rulemaking authority found in ORS 468.020.

Those rule changes related to confined animal feeding operations are made pursuant to the changes to ORS 468.020 as per HB 3445, passed by the 65th Oregon Legislative Assembly.

One of the rule modifications is made pursuant to Oregon Administrative Procedures found in ORS 183. 430.

(2) Need for the Rule:

There are several rule modifications proposed as follows:

(a) OAR Chapter 340 Division 45 needs to be modified to add the administrative procedure which allows an existing permit to remain in effect until the Department has acted upon the renewal application. This is needed to clarify existing procedures.

(b) Changes need to be made in OAR Chapter 340 Divisions 14 and 51 to make them consistent with changes made to ORS 468.740 by HB 3445.

(c) The current practice of issuing stipulated consent orders in lieu of, or in addition to, a permit needs to be described by rule.

(d) The fee schedule found in OAR 340-45-075 needs to be changed to clarify the fees required for General Permits and Special Permits. In addition, the fee schedule needs to clarify which mining operations would be considered "Major" and requiring the fees associated with major facilities.

(e) OAR Chapter 340 Division 52 needs to be changed by expanding the list of those small waste water treatment devises which do not require engineering plans to be prepared. This will bring the rules in line with current practice.

(3) Principal Documents Relied Upon in this Rulemaking:

HB 3445, passed by 1989 Oregon Legislature.

ORS 468.020, 730, 740

ORS 183.430

OAR Chapter 340 Divisions 14, 45, 51, and 52.

These documents are available for review during normal business hours at the Department's office, 811 SW sixth, Portland, Oregon, 5th floor.

LAND USE COMPATIBILITY STATEMENT

All of this proposed rulemaking involves only the modification of existing rules. The Department does not believe that any of the proposed rule modifications affect land use. All of the proposed rule modifications are consistent with Land Use Goals 6 and 11.

Public comment on any land use issue involved is welcome and may be submitted in the same fashion as indicated for testimony in this notice.

It is requested that local, state, and federal agencies review the proposed actions and comment on possible conflicts with their programs affecting land use and jurisdiction.

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

Prepared by: Charles K. Ashbaker
Phone Number: (503) 229-5325

Attachment C

FISCAL AND ECONOMIC IMPACT

Most of these proposed rule modifications will have no fiscal or economic impact. Those which will are described in detail, as follows:

Modifying the permit fee schedule in OAR 340-45-075 to establish an annual compliance determination fee for general permittees which is 1/5th the fee required of permittees with individual permits, will add a small fee ranging between $25 to $60 per year for most general permittees under the current fee schedule. This amount would change to range between $30 and $80 under a new proposed fee schedule. This is much less than the annual fee required of individual permittees. Small business impact will be minimal. One of the primary purposes of having general permits for certain categories of permittees is to lessen the impact on small business.

Modifying the permit fee schedule in OAR-45-075 to waive permit processing fees for those facilities registering to be covered by a general permit will be a savings of about $600 per permittee for the initial permit and about $300 per permittee for permit renewal. Many of the sources covered by the general permits which would benefit by this fee waiver are small business.

Prepared by: Charles K. Ashbaker
Phone Number: (503) 229-5325
Date Typed: February 15, 1990

ATTACHMENT D

SED 424
(1/1/87)

NOTICE OF PROPOSED RULEMAKING HEARING

AGENCY: OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY

The above named agency gives notice of hearing.

HEARING(S) TO BE HELD:

Date:	Time:	Location:
April 4, 1990	10:00 a.m.	DEQ Offices, 811 S.W. Sixth, Portland Room 4A

Hearings Officer(s): Charles K. Ashbaker

Pursuant to the statutory authority of ORS 468.020, ORS 468.730, and ORS 468.740 (ORS 468.740 is amended by HB 3445)
the following action is proposed:

ADOPT:

AMEND: OAR Chapter 340 Divisions 14, 45 and 52

REPEAL:

SUMMARY: There are several minor amendments to the DEQ permitting and plan review rules. Some of these amendments relate to permit fees. Others relate to stipulated consent orders, permitting non-point sources, waiving certain water pollution control facilities from engineering plan review requirements, and changing rules to conform to state and federal law.

Interested persons may comment on the proposed rules orally or in writing at the hearing. Written comments received by 5 p.m., April 12,1990 will also be considered. Written comments should be sent to and copies of the proposed rulemaking may be obtained from:

AGENCY: Department of Environmental Quality
ADDRESS: 811 SW Sixth
Portland, OR 97204

ATTN: Charles K. Ashbaker
PHONE: (503) 229-5325

Signature Date

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

PROPOSED MODIFICATION OF DEQ WATER QUALITY RULES

Notice Issued: 4-4-90
Comments Due: 4-12-90

WHO IS THE APPLICANT

Operators of Confined Animal Feeding Operations. Holders of general permits, small mining operations, and persons installing oil/water separators.

WHAT IS PROPOSED:

The Department of Environmental Quality is proposing to amend OAR Chapter 340, Divisions 14, 45, 51, and 52. These are considered minor modifications to bring the rules in line with current laws and practices and to clarify issues with regards to fees for general permits and issuance of stipulated consent orders.

WHAT ARE THE HIGHLIGHTS:

1. Make OAR Chapter 340 division 45 consistent with Division 14 by adding language regarding the fate of expiring NPDES permits when renewal application has been submitted in a timely manner.

2. Make permitting rules and confined animal feeding or holding rules consistent with HB 3445, adopted by the 1989 legislature.

3. Provide the circumstances upon which the Director can issue a Stipulated Consent Order in lieu of, or in addition to, a permit.

4. Clarify certain fee requirements pertaining to general permits and clarify the category of major mining operation.

5. Exempt small impoundments and oil/water separators from the requirement to have engineering plans approved by the Department.

HOW TO COMMENT:

Copies of the complete proposed rule package may be obtained from the Water Quality Division in Portland (811 S.W. Sixth Avenue) or the regional office nearest you. For further information contact Charles K. Ashbaker at (503) 229-5325.

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

11/1/86

FOR FURTHER INFORMATION:

Contact the person or division identified in the public notice by calling 229-5696 in the Portland area. To avoid long distance charges from other parts of the state, call 1-800-452-4011.

A public hearing will be held before a hearing office at:

(Time) 10 a.m.

(Date) April 4, 1990

(Place) Room 4A - DEQ Headquarters

811 S.W. 6th, Portland, Oregon

Oral and written comments will be accepted at the public hearing. Written comments may be sent to the DEQ Water Quality Division, 811 S.W. Sixth Avenue, Portland, OR 97204, but must be received by no later than 5 p.m., April 12, 1990.

WHAT IS THE NEXT STEP:

After public hearing the Environmental Quality Commission may adopt rules amendments identical to the proposed amendments, adopt modified rule amendments on the same subject matter, or decline to act. The Commission's deliberation should come in April or May as part of the agenda of a regularly scheduled Commission meeting.

A Statement of Need, Fiscal and Economic Impact Statement, and Land Use Consistency Statement are attached to this notice.

IW\WC6085

Attachment E

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY INTEROFFICE MEMORANDUM

DATE: April 12, 1990

TO: Environmental Quality Commission

FROM: Kent Ashbaker, Water Quality

SUBJECT: Hearings Officer Report - Minor Rule Modifications in OAR Chapter 340 Divisions 14, 45, 51, and 52, Affecting Industrial and Agricultural Sources

The Commission authorized a public hearing on these proposed rule modifications at their regular meeting on March 2, 1990. A Hearing notice was mailed on March 5, 1990. The hearing notice was sent to the Department's rule mailing list as well as to each industrial and agricultural permittee. In addition, a news release was issued on April 2, 1990.

A public hearing on the proposed rule modification was held in the DEQ conference room at 10:00 am on April 4, 1990. There were six people in attendance, as follows:

Tom Donaca, Associated Oregon Industries
John Piccininni, Bonneville Power Administration.
David Wilkinson, 635 Capitol, Salem
Jerry Richartz, Oregon Steel Mills, Portland
Chuck Craig, Oregon Department of Agriculture
Tom Messecar, American Equipment, Portland

They entered into discussions about the proposed rules but none offered any formal testimony. They seemed to be satisfied with the rules as drafted.

The hearing record was left open until April 12, 1990. The only written testimony recieved was from the Northwest Environmental Defense Center (NEDC). They did not object to the rules as proposed. However, they suggested that the Department promulgate additional rules specific to confined animal feeding operations to assure that the facilities properly dispose of wastes at agronomic rates and in a manner which would prevent surface and groundwater pollution.

NEIL GOLDSCHMIDT
GOVERNOR

Environmental Quality Commission

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

REQUEST FOR EQC ACTION

Meeting Date: May 25, 1990
Agenda Item: A-4(d)
Division: Water Quality
Section: Construction Grants

SUBJECT:

Sewerage Works Construction Grants: Adoption of Proposed Rule Modifications.

PURPOSE:

To adopt rule amendments to OAR 340-53-025, finalized after holding a public hearing in Portland, Oregon, on April 5, 1990. The rule amendments will provide the Department of Environmental Quality (Department) with the flexibility needed to fund projects on the Final Construction Grants Priority List.

ACTION REQUESTED:

___ Work Session Discussion
___ General Program Background
___ Potential Strategy, Policy, or Rules
___ Agenda Item ___ for Current Meeting
___ Other: (specify)

___ Authorize Rulemaking Hearing
_X_ Adopt Rules

Proposed Rules	Attachment A
Rulemaking Statements	Attachment B
Fiscal and Economic Impact Statement	Attachment B
Public Notice	Attachment C

___ Issue a Contested Case Order
___ Approve a Stipulated Order
___ Enter an Order

Proposed Order	Attachment ___

___ Approve Department Recommendation

___ Variance Request	Attachment ___
___ Exception to Rule	Attachment ___

___ Informational Report — Attachment ___
___ Other: (specify) — Attachment ___

DESCRIPTION OF REQUESTED ACTION:

The Department requests that the Environmental Quality Commission (EQC) adopt the amendments to the Construction Grant Rules (OAR 340-53).

On April 5, 1990, the Department conducted a public hearing on the proposed rule amendments. There were no attendees at the public hearing and only one written comment was received, which supported the amendments.

The proposed amendments will:

- Make the construction grant rules consistent with the Water Quality Act of 1987;
- Establish a funding range (4 to 7-1/2%) in the reserve for alternative sewage treatment systems for small communities;
- Establish a funding range (4 to 7-1/2%) in the reserve for innovative and alternative sewage treatment technologies;
- Add the above two reserves to the categories already established which may utilize monies recovered from prior year construction grant funds.

AUTHORITY/NEED FOR ACTION:

___ Required by Statute: _____ Attachment ___
Enactment Date: _____
_X_ Statutory Authority: ORS 468.020,ORS 183 Attachment ___
_X_ Pursuant to Rule: OAR 340-53 Attachment ___
_X_ Pursuant to Federal Law/Rule: P.L. 100-4 Attachment ___

___ Other: Attachment ___

_X_ Time Constraints: (explain)

The final rule modifications must be adopted at the May 25, 1990, EQC meeting to allow small communities to receive full grant funding from the reserves and reallocated construction grant funds during the final two federal fiscal year award cycles.

DEVELOPMENTAL BACKGROUND:

___	Advisory Committee Report/Recommendation	Attachment ___
_X_	Hearing Officer's Report/Recommendations	Attachment _D_
___	Response to Testimony/Comments	Attachment ___
___	Prior EQC Agenda Items: (list)	Attachment ___
___	Other Related Reports/Rules/Statutes:	Attachment ___
___	Supplemental Background Information	Attachment ___

REGULATED/AFFECTED COMMUNITY CONSTRAINTS/CONSIDERATIONS:

More communities request grants than available funds will serve. Funding decisions are based upon a priority list that ranks projects in terms of the seriousness of the water quality problem addressed, receiving waterbody sensitivity and population. A final priority list has been established for the duration of the program.

Communities on that Final Construction Grants Priority List will be minimally affected. These rule changes are not expected to be controversial and should receive support from these communities.

PROGRAM CONSIDERATIONS:

The Environmental Protection Agency (EPA) Sewerage Construction Grants Program classifies sewage treatment processes as conventional, alternative or innovative. Grants to build conventional treatment and alternative systems for small communities start with a base grant of 55 percent of eligible costs. Alternative and innovative processes are encouraged by allowing an additional 20 percent of eligible costs to be grant financed.

Alternative means, "proven treatment processes which provide for the reclaiming and reuse of water, productively recycle wastewater constituents, or otherwise eliminate the discharge of pollution, or recover energy." Innovative projects involve "developed technology that is not yet proven, but which represents a significant advantage over state of the art."

States are mandated by federal law to set aside reserves for certain specific purposes. DEQ's reserves are as indicated in Attachment A. One of these is a 4 percent set aside for small communities with alternative systems. At the federal level this reserve was changed by the Water Quality Act of 1987 to coincide with the innovative/alternative reserve (at

least 4%, but no more than 7.5%). DEQ did not immediately reflect this change in its own rules because the estimated reserves (at that time) seemed adequate to meet grant funding requirements.

However, actual grant awards last year were higher than anticipated and resulted in shortages in these reserves. In addition, the updated costs on the Final Construction Grants Priority List are higher than anticipated.

The adoption of the rule amendments is intended to enable the Department to meet the small community needs by taking full advantage of the flexibility built into the federal enabling legislation.

ALTERNATIVES CONSIDERED BY THE DEPARTMENT:

1. Maintain the current rule.

   Maintaining the current rule would result in some small communities on the priority list not receiving full grant funding for all components of their projects.

2. Change the small community and innovative/alternative limit in the rule to a different fixed percentage of construction grant funds and limit the categories that may utilize funds recovered from prior year allotments.

   This alternative would limit the Department's flexibility to adjust funding to changing community needs. As such, the Department could either have too much or not enough small community and innovative/alternative funds available to grant community requests.

3. Adopt the amendments to OAR 340-53-025 (Attachment A).

   This alternative gives the Department the flexibility to maximize funding for innovative and alternative processes in the construction grants program until it is phased out on September 30, 1991.

DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:

There were no attendees at the public hearing on April 5 and the Department received one written comment in favor of the proposed amendments. Therefore, the Department recommends approval of the rule amendments (Alternative 3).

CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE POLICY:

The proposed rule change is consistent with the strategic plan, EQC action, agency policy and legislative policy on the phase-out of the construction grants program and transition into the State Revolving Fund. That is, in approving prior Construction Grant rules and the priority list, a conscious decision was made to meet the sewerage treatment facility construction grant needs of as many small communities as possible. Without the requested change, many of these communities will receive smaller grants than they were planning on. Further, the successor sewerage treatment facility financing program (the State Revolving Fund) will increase costs to the point where many small communities may not be able to afford to make improvements needed to protect water quality.

This alternative is also consistent with the Water Quality Act of 1987.

ISSUES FOR COMMISSION TO RESOLVE:

None.

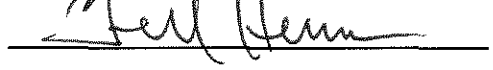
INTENDED FOLLOWUP ACTIONS:

File the rule with the Secretary of State.

Approved:

Section: 

Division: 

Director: 

Report Prepared By: Ruby L. Lane

Phone: 229-5789

Date Prepared: May 1, 1990

Ruby L. Lane:hs
CG/WH4016
May 1, 1990

OREGON ADMINISTRATIVE RULES
340-53-025

NOTE:

The **underlined** portions of text represent proposed additions made to the rule.

ESTABLISHMENT OF SPECIAL RESERVES

340-53-025

From the total funds allocated to the state the following reserves will be established for each funding year:

(1) Reserve for grant increases of five (5) percent.

(2) Reserve for Step 1 and Step 2 grant advances of up to ten (10) percent. This reserve shall not exceed the amount estimated to provide advances for eligible small communities projected to apply for a Step 3 or Step 2 plus 3 grant.

(3) Reserve for alternative components of projects for small communities utilizing alternative systems of not less than four (4) percent nor more than seven and one-half (7-1/2) percent.

(4) Reserve for additional funding of projects involving innovative or alternative technology of not less than four (4) percent nor more than seven and one-half (7-1/2) percent.

(5) Reserve for water quality management planning of not more than one percent of the state's allotment nor less than $100,000.

(6) Reserve for state management assistance of up to four percent of the total funds authorized for the state's allotment.

(7) Reserve for capitalization of state revolving fund in accordance with the following:

(a) FY87 - up to fifty (50) percent.

(b) FY88 - up to seventy-five (75) percent.

(c) FY89-90 - not less than fifty (50) percent and up to one hundred (100) percent.

(d) FY91-94 - one hundred (100) percent.

(8) Reserve for nonpoint source management planning of not more than 1 percent of the state's allotment nor less than $100,000.

(9) The balance of the state's allocation will be the general allotment.

(10) The Director may at his discretion utilize funds recovered from prior year allotments for the purpose of:

(a) Grant increases; or

(b) Conventional and alternative components of small community projects utilizing alternative systems; or

(c) Additional innovative or alternative technology; or

(d) The general allotment.

Stat. Auth.: ORS Ch. 468
Hist.: DEQ 24-1980, f. 9-29-80, ef. 10-1-80; DEQ 15-1982, f. & ef. 7-27-82; DEQ 14-1983, f. & ef. 8-26-83; DEQ 3-1987, f. & ef. 2-20-87; DEQ 16-1987, f. & ef. 8-12-87; DEQ 10-1989, f. & cert. ef. 6-9-89

Attachment B

RULE MAKING STATEMENTS

STATEMENT OF NEED FOR RULEMAKING

Pursuant to ORS 183.335(7), this statement provides information on the Environmental Quality Commission's intended action to amend OAR 340, Division 53, rules.

LEGAL AUTHORITY

ORS 468.020 authorizes the Environmental Quality Commission to adopt rules and standards in accordance with ORS Chapter 183.

NEED FOR THE RULE

The proposed rule amendments are necessary to allow the Department the flexibility it needs to continue the construction grants program until it is phased out on September 30, 1991.

The amendments would allow small communities to receive full grant funding from the appropriate grant reserves as provided by the Final Construction Grants Priority List.

PRINCIPAL DOCUMENTS RELIED UPON IN THIS RULEMAKING

Water Quality Act of 1987, Public Law 100-4
OAR 340 Division 53
ORS 183 and 468.020

FISCAL AND ECONOMIC IMPACT OF RULEMAKING

The proposed amendments to OAR 340-53-025 would benefit small communities utilizing alternative systems. If the existing rules are not modified, these communities would not receive the additional funds to which they are entitled.

LAND USE COMPATIBILITY STATEMENT

The proposed amendments appear to be consistent with all statewide planning goals. Specifically, the rule modifications comply with Goal 6 because they provide funds for water pollution control facilities, thereby contributing to the protection of water quality. The rule changes comply with Goal 11 because they assist communities in financing needed sewage collection and treatment facilities.

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

RULE MODIFICATIONS TO THE CONSTRUCTION GRANTS PROGRAM
NOTICE OF PUBLIC HEARING

Hearing Date: March 5, 1990
Comments Due: April 5, 1990

WHO IS AFFECTED: Cities, counties and special districts seeking U.S. Environmental Protection Agency grants for sewerage projects are directly affected.

WHAT IS PROPOSED: The Department of Environmental Quality proposes to modify the Construction Grants Program Rules (OAR 340-53-025). The proposed modifications:

- Make the construction grant rules consistent with the Water Quality Act of 1987;
- Establish a funding range (4 to 7-1/2%) in the reserve for alternative systems for small communities;
- Establish a funding range (4 to 7-1/2%) in the reserve for innovative and alternative technologies; and
- Add categories to those already established which may utilize funds recovered from prior year allotments.

WHAT ARE THE HIGHLIGHTS: The rule modification would establish a lower and upper limit in the reserve for alternative systems for small communities and in the reserve for innovative and alternative technologies. It also expands the categories which can be funded from reallocated funds to include these two reserves. This would allow the Department the flexibility it needs to fund the projects on the Final Construction Grants Priority List.

HOW TO COMMENT: Copies of the complete proposed rule can be obtained from:

Ruby Lane, Construction Grants Section
Department of Environmental Quality
Water Quality Division
811 S.W. Sixth Avenue
Portland, OR 97204
Telephone: (503) 229-5789

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

11/1/86

FOR FURTHER INFORMATION:
Contact the person or division identified in the public notice by calling 229-5696 in the Portland area. To avoid long distance charges from other parts of the state, call 1-800-452-4011.

OVER

Written comments should be sent to the same address by April 5, 1990. Verbal comments may be given during the public hearing scheduled as follows:

TIME: 2:00 p.m.

DATE: April 5, 1990

PLACE: DEQ Offices, 10th Floor, Room 10A
811 S.W. Sixth Avenue, Portland, Oregon

WHAT IS THE NEXT STEP:

After public hearing, the Environmental Quality Commission may adopt rules identical to those proposed, modify the rules, or decline to act. The Commission's deliberations should come on May 25, 1990, as part of the agenda of a regularly scheduled Commission meeting. A Statement of Need for Rules (including Fiscal Impact), and Statement of Land Use Consistency are attached to this notice.

Attachment D

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY **INTEROFFICE MEMORANDUM**

DATE: April 16, 1990

TO: Environmental Quality Commission

FROM: Thomas J. Lucas, Hearings Officer

SUBJECT: Report from Public Hearing Held on April 5, 1990

Proposed Rule Modifications to the Construction Grants Program - Summary of Proceedings

The public hearing for the proposed rule modifications was held on April 5, 1990, at 2:00 p.m. in Room 10A at 811 S.W. Sixth Avenue, Portland, Oregon. No one attended the public hearing, therefore, no oral testimony was given. One written comment on the rule modifications was received by close of the comment period on April 5, 1990.

Summary of Testimony

Dan C. Keeley, Civil Engineer, for the Marion County Department of Public Works, expressed support for the rule modifications on behalf of the Brooks Community Sewer District.

NEIL GOLDSCHMIDT
GOVERNOR

Environmental Quality Commission

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

REQUEST FOR EQC ACTION

Meeting Date: May 25, 1990
Agenda Item: B
Division: Management Services
Section: Administration

SUBJECT:

State/EPA Agreement: EQC Review of Department Recommendations

PURPOSE:

This annually updated agreement establishes mutual understanding of program priorities and expected accomplishments for the next fiscal year (July 1, 1990 through June 30, 1991) and becomes the basis for federal funding assistance to the Department of Environmental Quality (DEQ, Department).

ACTION REQUESTED:

___ Work Session Discussion
- ___ General Program Background
- ___ Potential Strategy, Policy, or Rules
- ___ Agenda Item ___ for Current Meeting
- ___ Other: (specify)

___ Authorize Rulemaking Hearing
___ Adopt Rules
- Proposed Rules — Attachment ___
- Rulemaking Statements — Attachment ___
- Fiscal and Economic Impact Statement — Attachment ___
- Public Notice — Attachment ___

___ Issue a Contested Case Order
___ Approve a Stipulated Order
___ Enter an Order
- Proposed Order — Attachment ___

_X_ Approve Department Recommendation
- ___ Variance Request — Attachment ___
- ___ Exception to Rule — Attachment ___
- _X_ Informational Report — Attachment ___
- ___ Other: (specify) — Attachment ___

DESCRIPTION OF REQUESTED ACTION:

This is an opportunity for the Environmental Quality Commission (EQC, Commission) to review the State/Environmental Protection Agency Agreement. A Public Hearing was held April 24, 1990. This report provides the Commission with information about the public hearing and the proposed State/EPA Agreement for the next fiscal year.

AUTHORITY/NEED FOR ACTION:

___ Required by Statute: _____ Attachment ___
Enactment Date: _____
___ Statutory Authority: _____ Attachment ___
___ Pursuant to Rule: _____ Attachment ___
___ Pursuant to Federal Law/Rule: _____ Attachment ___

_X_ Other: Attachment ___

Opportunity for public input through a public hearing and EQC review is required by the Environmental Protection Agency (EPA) as a prerequisite to approval of program funding grants.

_X_ Time Constraints: (explain)

EQC review is needed by May 25, 1990 so that annual federal program grants can be awarded by July 1, 1990 (beginning of the fiscal year).

DEVELOPMENTAL BACKGROUND:

___ Advisory Committee Report/Recommendation Attachment ___
_X_ Hearing Officer's Report/Recommendations Attachment A
___ Response to Testimony/Comments Attachment ___
___ Prior EQC Agenda Items: (list)
Attachment ___
___ Other Related Reports/Rules/Statutes:
Attachment ___
_X_ Supplemental Background Information Attachment B

A draft Executive Summary of the State/EPA Agreement is provided in Attachment B. The Department held a public hearing on the proposed agreement to allow complete consideration of any comments received prior to issues nearing consensus with the EPA. A public hearing was held, but no comments were offered. The hearing officer's report is included as Attachment A.

REGULATED/AFFECTED COMMUNITY CONSTRAINTS/CONSIDERATIONS:

The agreement should not change relationships with the regulated or affected community.

PROGRAM CONSIDERATIONS:

The State/EPA Agreement is the basis for financial assistance from EPA. It also provides mutual understanding of shared goals and proposed achievements.

ALTERNATIVES CONSIDERED BY THE DEPARTMENT:

None.

DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:

The Department recommends that the Commission accept the information report.

CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE POLICY:

The State/EPA Agreement is consistent with and reflects the strategic plan, agency policy, and legislative policy.

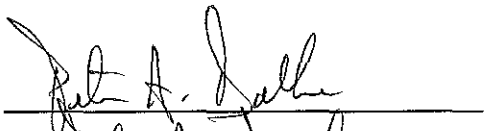
ISSUES FOR COMMISSION TO RESOLVE:

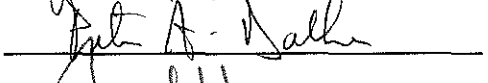
None.

INTENDED FOLLOWUP ACTIONS:

The Department will continue to negotiate with EPA to reach agreement and sign the final document by July 1, 1990.

Approved:

Section: 

Division: 

Director: 

Report Prepared By: Peter Dalke
Phone: 229-6485
Date Prepared: April 25, 1990

PD:y
MY100511
May 7, 1990

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY INTEROFFICE MEMO

TO: Environmental Quality Commission DATE: April 30, 1990

FROM: Hearing Officer

SUBJECT: Hearing Report for Proposed State/EPA annual agreement hearing held April 24, 1990.

Summary of Procedure

As announced in the public notice, a public hearing was held on Tuesday, April 24, 1990, in Room 10A of the Executive Building (DEQ Headquarters). The purpose of the hearing was to receive testimony on the Department's proposed annual agreement with the Environmental Protection Agency which establishes mutual understanding of program priorities and expected accomplishments for the fiscal year of July 1, 1990 through June 30, 1991. Peter Dalke, Administrator of the Department's Management Services Division, served as hearings officer. Public notice appeared in the Oregonian newspaper on March 23, 1990, announcing the scheduling of the hearing. In addition, persons and organizations who have asked to be notified of events related to the State/EPA agreement were mailed notices of the hearing. The hearing lasted from 1:00 p.m. to 3:00 p.m.

No person appeared to offer oral testimony nor was any written testimony submitted at the hearing.

Two individuals attended the hearing for informational purposes: Phyllis McLoughlin, representing A & M Associates, and Eugene Rosolie for Northwest Environmental Advocates. Neither individual offered testimony. Both individuals requested a copy of the complete State/EPA agreement. The copies have been mailed to them.

PD:y
MY100512

Attachment A

FINAL DRAFT

STATE/EPA AGREEMENT

STATE FISCAL YEAR 1991

JULY 1, 1990 TO JUNE 30, 1991

BETWEEN

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY

AND

U.S. ENVIRONMENTAL PROTECTION AGENCY

REGION 10

E X E C U T I V E D O C U M E N T

ATTACHMENT B

2391C

OREGON STATE/EPA AGREEMENT

STATE FISCAL YEAR 1991

TABLE OF CONTENTS

EXECUTIVE DOCUMENT

PREFACE

Agreements, called "State/EPA Agreements" (SEAs), are developed annually between the State of Oregon Departments of Environmental Quality, Human Resources (Health Division), and Agriculture and the U.S. Environmental Protection Agency - Region 10 to cooperatively deliver environmental services in Oregon. If you are interested in information about any of the following programs, an excellent reference would be the appropriate SEA.

Further information can be obtained by contacting either the EPA - Oregon Operations Office, 811 S.W. Sixth Avenue, Portland, Oregon 97204 or the responsible state agency:

Department of Environmental Quality
811 S.W. Sixth Avenue
Portland, Oregon 97204

Air Quality
Water Quality
Hazardous Waste
Underground Storage Tank
Environmental Cleanup

Department of Human Resources
Health Division
811 State Office Building
1400 S.W. Fifth Avenue
Portland, Oregon 97201

Drinking Water

Department of Agriculture
Agriculture Building
635 Capitol N.E.
Salem, Oregon 97310

Pesticides

(#0311C)

SFY 1991

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
Underground Storage Tank
Environmental Cleanup

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 1991. This agreement includes required work plans and is the application for EPA program grants by 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).

This agreement covers the period of time from July 1, 1990, through June 30, 1991. The two agencies hereby agree to cooperatively work towards achieving environmental results and comply with the provisions set forth herein.

All program commitments, grants, and assistance are subject to actions of the State Legislature, Congress, and the Courts.

This agreement shall be subject to modification upon approval of both parties.

FOR THE STATE OF OREGON:

Frederic J. Hansen, Director
Department of Environmental Quality

Date

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY:

Thomas P. Dunne, Acting Regional Administrator
Environmental Protection Agency, Region 10

Date

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 1991 (July 1, 1990, to June 30, 1991). The programs include:

Air Quality
Water Quality
Hazardous Waste
Underground Storage Tank
Environmental Cleanup

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 consists of two documents, which are incorporated as part of this agreement. They are:

1. Executive Document - Provides 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.

2. Program Work Plans - Provides detailed workplans to be carried out by each program during the fiscal year. This document also contains the FY 91 grant applications.

SUMMARY OF PUBLIC PARTICIPATION

1991 State/EPA Agreement

The public participation process initiated for the 1991 State/EPA Agreement includes: (1) a plan prepared by the Management Services Division of the Department of Environmental Quality and approved by the EPA's Oregon Operations Office; (2) a Notice of Intent to Apply for Federal Aid for the air, water, and hazardous waste program grant funds distributed through the State Clearinghouse (A-95) process; (3) a public notice of the chance to comment on the Agreement sent directly to the 14 regional councils of government in the state, to Department mailing lists, and published in The Oregonian; (4) a public hearing; (5) a responsiveness summary to comments received during public hearing; and (6) an information report to the EQC on the SEA, including a summary of public comments. The above elements of this process are discussed on the following pages. Specific mailing lists are available from DEQ's Management Services Division.

PUBLIC PARTICIPATION PLAN

For the State/EPA Agreement
Fiscal Year 1991

As outlined in applicable Federal Regulation (46 FR 12: 5737), a detailed public participation plan must be included in the negotiations of the State/EPA agreement for each year. The elements of a successful public participation plan include: IDENTIFICATION of affected and interested parties and groups, OUTREACH to those individuals and groups through a variety of techniques and methods, DIALOGUE between the interested parties, the Department and EPA, ASSIMILATION of the ideas offered by the groups which are involved and offer comments, and FEEDBACK to the interested parties and groups or individuals which comment about the final agreement.

This plan, developed by the Management Services Division of the Oregon Department of Environmental Quality, addresses each of these broad areas with specific groups, listings, timetables, and techniques to accomplish each goal cumulating into the overall public participation plan for the SEA FY 91.

IDENTIFICATION

All Oregonians, along with groups and individuals presently involved in environmental concerns in Oregon, are affected by the SEA. Many elements of the agreement directly affect the environmental program of Oregon.

DEQ presently uses an advisory committee for each major policy area. Each of these committees is composed of a variety of interest groups, including local governments, public interest groups, environmentalists, unaffiliated citizens, and industrial associations.

Also interested in the DEQ policy are those groups and individuals who comment regularly on proposed environmental rulemaking. As rules are proposed for water quality, air quality, solid waste, hazardous waste, or underground storage tank programs, public comment on the conditions of the rules are solicited. A list of people who have indicated an interest in reviewing the Department's proposed rules is available at DEQ offices.

OUTREACH

1. Methods

   Because most of the material is complex, much of the outreach for the SEA is written material distributed through the mail. A 2-page summary of the executive document is prepared. This summary is mailed to individuals who indicate they wish to receive it. The summary indicates that the full executive document is available free of charge from the DEQ Management Services Division. The statewide toll-free number is given, eliminating long distance charges for those who need additional information. Also, a news release announces the

opportunity for public comment at a public hearing and the date of the Environmental Quality Commission (EQC) meeting to discuss the SEA.

2. Content

The outreach material includes background information on the SEA, a timetable of the proposed actions, a summary of the SEA listing the issues, and the name of a specific individual to contact for additional information.

3. Notification

The outreach materials are mailed to interested parties as soon as they are available.

4. Timing

Prior to the mailing, a paid advertisement is used in the Oregonian, the statewide paper of largest circulation, indicating the upcoming opportunity for public comment.

5. Depositories

Copies of the SEA along with the executive document are available at all DEQ offices. DEQ offices are located at:

Headquarters Office
811 SW Sixth Avenue
Portland, Oregon 97204
229-5696 Toll Free 1-800-452-4011

Astoria Branch Office
Clatsop County Courthouse
749 Commercial
P.O. Box 869
Astoria, Oregon 97103
325-8660

Willamette Valley Region
750 Front Street N.E. - Suite 120
Salem, Oregon 97310
378-8240

Coos Bay Branch Office
490 N. 2nd
Coos Bay, Oregon 97420
269-2721

Roseburg Branch Office
1937 W. Harvard Blvd.
Roseburg, Oregon 97470
440-3338

Southwest Region
201 W. Main Street
Suite 2-D
Medford, Oregon 97501
776-6010

Central Region
2146 NE 4th
Bend, Oregon 97701
388-6146

Eastern Region Office
700 SE Emigrant
Suite 330
Pendleton, Oregon 97801
276-4063

DIALOGUE

Dialogue is preceded by the distribution of a summary of the issues and timetable for decision-making. A public hearing to accept testimony from the public was held April __, 1990. Written testimony is accepted through May 25, 1990, on which date the Commission receives a summary staff report on the SEA which includes comments from the public hearing, together with agency response.

PUBLIC HEARING REQUIREMENTS

1. Timing: The notice of public hearing is distributed to the interested parties at least 30 days prior to the public hearing. The public hearing notice is distributed to the news media.

2. Content of Notice: The content of the notice clearly identifies the issues to be discussed along with alternatives.

3. Provision of Information: All pertinent information is available to the public.

4. Conduct of the Hearing: The public hearing is conducted by the Management Services Division. The hearings officer provides a report of hearing testimony to the Environmental Quality Commission. The report includes a responsiveness summary.

5. Record of Hearing: The public record remains open until the hearings officer reports to the Environmental Quality Commission. The Commission may request additional testimony or clarification at the time the report is submitted.

RESPONSIVENESS SUMMARIES

The DEQ staff prepares a responsiveness summary for the public participation process used in the SEA. This commentary briefly and clearly documents the agency's consideration of the public's input into the SEA.

The responsiveness summary includes: the type of participation that was carried out, identification of those who participated and their affiliation (if applicable); issues, the public's views, including criticism; and logic of the agency in making its decision and the agency's specific responses to each comment.

Availability of the responsiveness summary is advertised in a paid advertisement in the Oregonian, the statewide paper that has the largest circulation to the affected population.

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.
- Address environmental issues on a comprehensive (multi-media) basis.

BACKGROUND:

Much of Oregon enjoys very good air quality. 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 most historic problem areas and most of these areas are meeting the standards or coming very close. The new federal PM-10 standards coupled with increased monitoring for PM-10 have identified several new and some severe problem areas. The areas considered out of attainment by Oregon are:

Eugene/Springfield:	PM-10
Grants Pass:	PM-10, Carbon Monoxide
Klamath Falls:	PM-10, Carbon Monoxide
Medford/White City:	PM-10, Carbon Monoxide
LaGrande:	PM-10

Additionally, four other areas may have levels of PM-10 in excess of allowable levels and future monitoring is needed for confirmation. They are:

Portland
Oakridge
Bend
Lakeview

PM-10 NON-ATTAINMENT:

Ambient levels of PM-10 continue to represent the most significant health threat of the criteria pollutants. For that reason, PM-10 will continue as the top priority issue for the Air Quality Division (AQD). It is expected that draft PM-10 SIPs will have been completed during FY 1990 and that final proposed SIPs will be taken to the Environmental Quality Commission for possible adoption and subsequent submittal to EPA during FY 1991. If necessary, a continuing effort will be made to obtain mandatory curtailment ordinances from local governments. Special project requests will be submitted to Region 10 in order to conduct a second round of saturation monitoring studies in selected non-attainment areas and to determine the ambient PM-10 concentrations in some previously unmonitored population centers. Areas

determined to exceed the NAAQS for PM-10 will be redesignated as non-attainment. While no decision has been made to date, it is possible that a PM-10 related legislative proposal might be pursued. Such a proposal could include state authority for mandatory curtailment in areas where needed and/or incentives for local government and citizen participation in PM-10 reduction measures. It is expected that AQD will work with the woodstove manufacturing industry to develop a system for durability testing in order to improve in-home performance of woodstoves. Implementation of recently adopted PM-10 requirements for the Medford area and Grants Pass wood products industries will continue during FY 91.

AIR TOXICS:

A program to address toxic emissions from existing stationary sources will be pursued during FY 91. The anticipated approach will be similar to that proposed by the administration within the ongoing Clean Air Act debates, i.e., a base control technology requirement (BACT, MACT) followed by a residual risk assessment and, if necessary, subsequent additional control requirements until an acceptable level of risk is achieved. It is possible that final adoption of rulemaking dealing with permit requirements for new sources of air toxics may not be completed during FY 90. If so, final adoption of new source requirements will be pursued early in FY 91.

CARBON MONOXIDE:

Redesignation of the Portland CBD to attainment for Carbon Monoxide will be pursued in conjunction with a SIP revision to allow specific offsets to accommodate increases in the current downtown parking lid. Economic development pressures on city government will create a need for the AQD to at least have a draft revision to the Region and concurrence by the Region with the use of specific offsets and the new lid amount. If preliminary monitoring data is confirmed, and no off-site anomalies are identified, a new CO non-attainment area will be designated in Southeast Portland and associated work efforts would be undertaken during FY 91.

An emission inventory for CO sources in the Klamath Falls area will be completed as a first step in addressing the recent SIP call for CO non-attainment in the area.

An evaluation will be made to determine the reason for the unexpected number of exceedances of the CO NAAQS during the 1989-1990 winter in the Medford area. The effectiveness of the existing control strategy and the need for any modifications will be assessed.

REVENUE ENHANCEMENT:

The current fiscal situation of AQD dictates that a high priority be given to inceasing supporting revenues. The 1989 legislature required that all future fee increases approved by the EQC must receive subsequent legislative approval prior to going into effect. It is expected that AQD will pursue an

increase in permitting fees and possibly vehicle inspection fees. The approach taken in regard to fees could be significantly influenced by the outcome of the Clean Air Act reauthorization process. The permit program will pursue increased coordination with other environmental permit programs during permit review and issuance.

INSPECTION OF PUBLIC BUILDINGS FOR ASBESTOS:

While a final decision has not yet been made, AQD intends to recommend that a legislative proposal be drafted and pursued during the 1991 session that would require the inspection of buildings for the presence of asbestos prior to remodeling or demolition.

PORTLAND OZONE MAINTENANCE SIP:

Development of an Ozone maintenance SIP for the Portland metropolitan area will be pursued. Stage Two Vapor Recovery and remaining VOC rule changes recommended by the Region will be pursued for inclusion within the maintenance SIP.

AMBIENT MONITORING:

The development of a more proactive approach to ambient monitoring will be pursued during FY 91. Currently, exploratory monitoring is limited to special project activities, and if exceedances are observed, AQD is expected to establish and operate a long-term monitoring site with no additional funding. Long-term planning is projected for both exploratory monitoring and funding to cover additional needs.

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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.
- 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:

Although Oregon ranks tenth among states in total area, its population is less than that of many states. Oregon's current population is 2,690,000 and continues to grow, but at a lower rate than in the 1960s. This still means more wastes will be generated, which will require adequate treatment and disposal in order to maintain and protect surface and groundwater quality. DEQ will continue to operate its program of preventing new water pollution problems. Efforts will also continue to be directed to correction of localized water pollution problems and nuisance conditions by establishing total maximum daily loads (TMDLs) on water quality limited streams, 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 - Of 90,000 stream miles, nearly 27,740 miles have been assessed. Based on the 1990 305(b) report and the streams assessed, designated uses are supported in 45 percent, partially supported in 31 percent, and not supported in 24 percent. Of nearly 374,000 acres of lakes assessed, designated uses are supported in 74 percent, partially supported in 12 percent, and not supported in 14 percent. Oregon has 21 major estuaries, with a total of 131,844 acres of intertidal and subtidal habitats. Only 6 of the 21 estuaries are classified as being economically feasible for commercial growth and harvest of shellfish. Parameters of major concern preventing full support of uses in surface waters are flow alteration, temperature, solids, fecal coliform bacteria, habitat alteration, and algae. 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 about 1,600,000 Oregonians who rely on

groundwater for all or part of their daily water needs. Many existing urban centers and new developments are located above these aquifers. The number of known groundwater contamination areas in the state has increased over the last few years. Groundwater contamination from industrial and agricultural activities, landfills, and on-site sewage disposal are the major sources of contamination.

Enforcement Compliance Policy and Procedures

In March 1989, DEQ adopted new rules on enforcement procedures and civil penalties. The goals of the enforcement procedures are to obtain and maintain compliance with DEQ's statutes, rules, permits, and orders; protect the public health and environment; deter future violators and violations; and ensure appropriate and consistent statewide enforcement.

Priorities:

Groundwater

As a result of the adoption of the Groundwater Quality Protection Rules, DEQ will develop and implement a number of new groundwater protection programs and activities in FY 91. These activities include:

- Develop specific guidance document for the implementation of the groundwater rules.
- Establish priorities and action plans to conduct the ongoing statewide ambient monitoring and assessment projects.
- Implement and coordinate the groundwater protection strategy.

In addition, DEQ will participate with EPA on developing a process for ranking and mapping groundwater vulnerability on a statewide scale and a much more detailed level in one demonstration project area. The Groundwater Section will continue to coordinate with the Oregon Department of Agriculture to formulate a pesticides in groundwater management strategy and will continue the development of a State wellhead protection program, which was begun in FY 90.

Underground Injection Control

Coordinated activities with DEQ's Groundwater Section and the Water Resources Department will continue to ensure adequate groundwater quality protection requirements are met at UIC sites. Efforts will concentrate on reducing the potential for contamination of groundwater by commercial and gas station disposal wells. Industrial waste disposal wells will also be inspected and sampled to ensure compliance with permit conditions.

Wetlands Protection

DEQ will continue to strengthen its wetland protection program through the Section 401 water quality certification process. Assuming the availability of federal funds, the following issues have been identified as priorities for state actions for accomplishing wetland protection objectives:

- DEQ needs to develop water quality standards for wetlands.

- DEQ needs to include wetlands in their definition of "waters of the State". The definition needs to be consistent with federal and other state regulatory agencies.

- DEQ needs to develop procedures and criteria for evaluating fill projects through the 401 certification process. Such procedures and criteria should address both the water quality impacts of the fill as a pollutant and impacts as a result of lost wetland functional value as a water quality feature.

State Revolving Fund Program

EPA awarded DEQ a capitalization grant to fund the federal portion of the State Revolving Fund Program (SRF) on September 30, 1989. The initial loan applications are being reviewed and could be approved in June of FY 90. SRF Task Force met March 20, April 4 and 12, 1990, to address issues on funding of collector sewers and project priority system. SRF Regulations are currently being revised, and the FY 90 capitalization grant package is anticipated to be submitted to EPA on August 1990.

Construction Grants

DEQ will continue to emphasize timely administrative completion of physically completed projects. Efforts should ensure that newly-completed projects are administratively completed in a timely manner, within 18 months from initiation of operation. As the program winds down, it will be particularly important to stay on top of administrative completions. (NOTE: Final statewide construction grants priority list for FY 90 and 91 was approved in September 1989.)

Municipal Wastewater Pollution Prevention Program (MWPP)

DEQ will continue to operate its existing Municipal Wastewater Pollution Prevention Program. However, DEQ will evaluate the need to further refine its existing program to meet any mandatory Federal requirements. Such a program could be a more comprehensive approach encouraging communities to plan for and to remain in compliance with the enforceable requirements of the Clean Water Act.

Clean Water Strategy

Priorities should continue to be established for water quality limited waters, non-point sources, estuaries, lakes, toxics, and other clean water activities.

- Water Quality Limited Waters

  See the table at the end of Water Quality Program section which is from the FY 90 Section 305(b) report summarizing progress to date on developing TMDLs.

  To date, DEQ has completed all Phase I work on schedule with technical assistance from EPA. TMDL/wasteload allocation/load allocation for the Tualatin River, Yamhill River, Bear Creek, and Garrison Lake have been completed. In FY 90, TMDL/wasteload allocation/load allocation was completed for the Pudding River and dioxin on the Columbia River is expected to be completed. TMDL/wasteload allocation/load allocation has been determined not to be necessary for the Calapooia River because it is not water quality limited.

- Nonpoint Source

  The DEQ will ensure effective implementation of the State's Nonpoint Source Management Program under Section 319 of the Water Quality Act of 1987. The program will be implemented using a cooperative interagency approach, and will completely document results. The 1990 305(b) report and the 1988 Oregon Statewide Assessment of Nonpoint Sources of Pollution will continue to be the major basis for problem identification.

- Estuaries

  DEQ will develop and implement a monitoring strategy for the Lower Columbia River with the state of Washington. The bi-state funded study on the Columbia River will identify the extent of environmental problems and develop a management plan to correct these problems. Based on the EPA financed Near Coastal Waters Pilot Project (due for completion by September 1990), the DEQ will develop a management framework for managing the environmental quality of Oregon's near coastal waters. This will result from the synthesis of knowledge gained by working on the Coquille estuary, with the Oregon Coastal Zone Management Agency, as well as other state and federal resource agencies, and with the government developing the Oregon Ocean Resources Management Program. The overall management plan will identify and prioritize water and other environmental problems in other coastal waters of the State.

- Lakes

  DEQ will continue to develop a long-term lake restoration program consistent with the Section 314 Lake Water Quality Assessment (LWQA) grant which includes a description of its overall management plan for all its lakes, and what it plans to do to restore and/or protect all of its degraded lakes. The DEQ will continue to take advantage of EPA Clean Lakes grant funds. The State will continue to establish, coordinate, and encourage citizen participation in monitoring efforts to obtain additional information needed on waterbodies.

- Toxics

  DEQ will continue to implement individual control strategies for confirmed point source facilities discharging toxic pollutants. Problem assessments for areas suspected to be contaminated by toxic pollutants will be completed. The special assessment report on toxicity in the Lower Willamette River will also be completed.

- Other

  Priorities will be established that relate to water quality standards development. Instream monitoring requirements should be established for all sources discharging to receiving streams as appropriate for that source and which can provide essential information on water quality status. The State will conduct or require permitted sources to conduct special studies such as mixing zone studies to obtain the detailed information on potential effects of source discharges. Other intensive studies will be required to identify assimilative capacity and cumulative impacts from multiple sources and multiple pollutants.

National Pollutant Elimination Discharge System (NPDES)

Eliminating the backlog of unissued permits must continue to be a high priority for the water program; DEQ has submitted to EPA a plan to take care of it. The State will continue to conduct NPDES inspections, including program oversight/implementation. Depending upon allocation of State funds, the DEQ will conduct pretreatment inspections and audits, including program oversight/implementation. The individual control strategies for those facilities on the State's 304(l) short list will be implemented. After EPA rules and regulations and guidance are issued, stormwater permitting will be initiated as well as implementation of CSO corrections.

Federal Facilities Compliance

Under a MOA, DEQ will continue to ensure federal facilities remain in compliance with their NPDES permits. This will include conducting compliance inspections, monitoring, and taking timely and appropriate enforcement actions for non-compliance.

Table 5-22: Total Maximum Daily Load Program and Status

Work Tasks	Initial Problem Assessment Status	Initial TMDLs	Intensive Water Quality Study Status	Status of Water Quality Criteria Development	Environmental Quality Commission Action	Implementation Schedule	Action Pending on Implementation Plan	Status of EPA Approval
TMDL/WLA/LA DEVELOPMENT								
1. Tualatin River	Completed	Established NH_3 TP	Completed	Criteria Finalized	EQC Adopted Criteria	1. Point Sources Program Plan: March 1990. 2. Nonpoint Sources Program Plans: March 1990 3. Complete Compliance: June 1993.	Review and Approval of Program Plans	NH_3
2. Bear Creek	Completed	Established NH_3 TP Toxics	Completed	Criteria Finalized	EQC Adopted	1. Point Source Program Plan Submitted by Ashland. 2. Point Source Program Plan for Log Ponds: Next Spring. 3. NPS Program Plans Compliance by: _____.	Review and Approval of Program Plan	
3. Yamhill River	Completed	Established	Completed	Criteria Finalized	EQC Adopted	1. Point Source Program Plan submitted. 2. Compliance Date. 3. Nonpoint Source Plan (Voluntary).	Review and Approval of Program Plan	
4. Columbia Slough	• Completed for Fecal/Algae. • Need more Topic.	• Completed for Fecal/Algae. • Need more Topic.	• Completed for Fecal/Algae. • Need more Topic.	Under Assessment	None			

Table 5-22: Total Maximum Daily Load Program and Status (Continued)

Work Tasks	Initial Problem Assessment Status	Initial TMDLs	Intensive Water Quality Study Status	Status of Water Quality Criteria Development	Environmental Quality Commission Action	Implementation Schedule	Action Pending on Implementation Plan	Status of EPA Approval
TMDL/WLA/LA DEVELOPMENT								
5. Pudding River	Completed	In Progress	Completed	Under Assessment	None			
6. Coast Fork Willamette River	Completed	In Progress	Completed	Under Assessment	None			
7. South Umpqua River	Completed		No Action	No Action	None	No Action	No Action	
8. Grande Ronde River	Completed		No Action	No Action	None	No Action	No Action	
9. Klamath River	Completed		No Action	No Action	None	No Action	No Action	
10. Umatilla River	Completed		No Action	No Action	None	No Action	No Action	
11. Columbia River	Not Done		No Action (U.S. EPA Screening)	U.S. EPA Values Adopted by Commission	None			
12. Garrison Lake	Completed	Completed Establish TP	Completed Clean Lakes Grants	No Discharge Under Existing Policy	None Required			Approved
13. Coquille River	In Progress	In Progress	In Progress	Under Assessment	None			
14. Rickreall Creek	Not Done	In Progress	Preliminary Completed	No Action Required				
15. Clear Lake	Completed	In Progress	No Action	In Progress	None	No Action	No Action	

HAZARDOUS WASTE PROGRAM

Program Goals

The goal of the hazardous waste program is to ensure that human health and the environment are protected from the risks of improperly managed hazardous waste. The goal is achieved through a two-fold effort: (1) through development, implementation, and enforcement of sound waste management practices; and (2) through development and implementation of a pollution prevention program which seeks to reduce or eliminate the generation of hazardous waste and use of toxic substances.

Background

The Oregon Department of Environmental Quality (DEQ) began the hazardous waste regulatory program in 1971. The DEQ received interim authorization from the EPA in June 1981 to manage the Resource Conservation and Recovery Act (RCRA) program. Over the years, the Oregon Legislature expanded the Department's authority and the agency developed the regulatory tools necessary to carry out the program.

On January 31, 1986, the DEQ received authorization for management of the hazardous waste program in lieu of the federal base RCRA program. Today, a comprehensive regulatory framework exists and provides not only "cradle-to-grave" control over the generation, transport, and disposal of hazardous waste, but includes authority to address problems associated with past waste handling practices and minimizes the generation of future hazardous waste. With increased authority given by the state legislature, the DEQ continues to work toward authorization to implement the federal program promulgated under the Hazardous and Solid Waste Amendments (HSWA) of 1984.

In addition to the increased scope and complexity of the regulatory program, the DEQ is also faced with a growing hazardous waste generator universe. Since September 1988, over 260 new generators have been added largely as a result of the DEQ generator survey. Currently, there are over 1,700 generators registered with the DEQ.

In 1989 the Oregon State Legislature passed the Toxic Use Reduction and Hazardous Waste Reduction Act which gave clear authority and directive to the DEQ to develop and implement a Pollution Prevention Program. The program addresses chemical usage from start (toxics use) to finish (hazardous waste generation). The adverse effects of chemicals in the workplace is reduced by: (1) providing technical assistance to affected industries, (2) monitoring the use of toxic substances and the generation of hazardous waste, and (3) requiring affected industries to engage in comprehensive planning and to develop performance goals for toxic use reduction and hazardous waste reduction.

The program is designed to achieve in-plant changes that reduce, avoid or eliminate the use of toxic substances and generation of hazardous wastes. The process is expected to lower industrial costs and liabilities, and to benefit public health, safety and the environment.

PRIORITIES

DEQ RCRA Regulatory Program priorities for FY 91 include several activities related to operation of the base program and working towards HSWA authorization:

- Continue to operate a comprehensive, high-quality hazardous waste program.
- Continue to work towards achieving final authorization for new RCRA and HSWA regulations.
- Evaluate and implement measures to stabilize long-term federal and state funding for the hazardous waste program.
- Promote alternatives to land disposal and implement the provisions of the land disposal ban.
- Develop a state information management system for the hazardous waste program which meets both state needs and federal reporting needs.
- Continue to conduct a compliance program targeted at generators of hazardous waste and pursue enforcement against significant violators.
- Continue to develop and implement education/technical assistance for hazardous waste generators.
- Participate in state and regional dialogue related to the flow of waste between western states, the need to establish new waste management capacity and developing environmentally sound alternatives to land disposal.
- Continue to focus on environmental cleanup, closure, corrective action and post-closure permits at environmentally significant unauthorized land disposal facilities. Develop consistent clean-up standards within DEQ.
- Continue hazardous waste permitting work at storage facilities and post-closure of land disposal facilities in order to meet federal congressionally-mandated deadlines.

DEQ Pollution Prevention Program priorities for FY 91 include the following key activities:

- Adoption of implementing regulations for the Toxic Use Reduction and Hazardous Waste Reduction Act of 1989.
- Development and implemention of a technical assistance program that assists hazardous waste generators and toxic substances users in preparing reduction plans and identifying and selecting technically sound reduction options for successful implementation.

- Establish uniform reporting requirements and a network of information/data management systems for the purpose of collecting and monitoring data on the reduction of toxics use and hazardous waste.

- Work with the EPA in establishing a regional network for pollution prevention outreach and education.

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SEA Executive Document

Fiscal Year 1991

UNDERGROUND STORAGE TANK PROGRAMS

Program Goals

The goals of DEQ's Underground Storage Tank (UST) and Leaking UST (LUST) programs, are: 1) UST, to prevent future UST releases into the environment, 2) LUST, to identify and clean up those LUST sites that are contaminated.

Background

DEQ's UST program staff focuses on compliance/prevention activities. About one-quarter of the program's overall resources are provided by EPA grant funds and three-quarters are provided by the state's $25 per tank permit fee.

The UST program is staffed with one UST and one or more LUST persons in each of the five Regional Offices. Region Office UST staff responsibilities have concentrated on identification of non-permitted USTs, installation/closure tracking, and assistance with Region Office response to LUST site contamination. Headquarters UST staff has concentrated on outreach (presentations, technical assistance, informational materials), permitting, development of technical and financial responsibility regulations, development of a contractor licensing regulations, and licensing of contractors, tank decommissioning requirements, and database development.

DEQ's LUST program staff is responsible for responding to contaminated sites. In FY 1990 and 1991, a ten percent state match to federal support is required. During FY 1987 - 1989, DEQ's LUST program was 100 percent funded by EPA's LUST Trust Fund. Region Office LUST staff responds to reports of contamination, visits sites when required, advises owners/operators of the required regulatory responses to contamination, and tracks cleanup efforts. Headquarters LUST staff has focused on preparation of LUST procedures and guidance, management of the LUST Trust Fund and the EPA/DEQ Cooperative Agreement, resolution of responsible party issues, and cleanup at complex LUST sites. More attention will be given to compliance, enforcement (UST and LUST), and cost recovery for LUST sites in FY 91.

Priorities

UST Program

Adopt Technical Standards and Financial Responsibility Rules and licensing rules.

- UST staff expects that UST rules, equivalent in scope to EPA's new UST rules, will be adopted by late summer 1990.
- DEQ-UST is one of the leading states in the U.S.A. in the development of financial assistance mechanisms and licensing of contractors.

Training
- The UST staff requires training in several critical areas, including classroom/hands-on tank installation and decommissioning, site assessment, leak detection and corrosion protection technology, and compliance/enforcement protocols.
- DEQ-UST has been developing expertise rapidly and will continue to do so in FY 1991.

Outreach for Voluntary Compliance
- Training seminars, Tankline publication and presentations will continue with high priority. The DEQ-UST program has been outstanding on outreach and will continue to agressively perform outreach activity.

Program Approval Application
- Following adoption of state UST rules, staff expects to have an UST/LUST program approval package ready for EPA consideration by August 1990, (UST cleanup rules have already been adopted by DEQ).

Implementation of Certification Rules
- Licensing and certification rules for contractors were adopte by the EQC in March 1989. Other than owners/operators working on their own facilities, only licensed contractors are allowed to work on UST systems. Remedial action service providers and supervisors will also be licensed.

Issue Final UST Permits
- All eligible UST owners/operators must have state operating permits. Following final adoption of UST rules, all existing temporary permits will be replaced with final permits.

LUST Program

EPA/DEQ Coopeative Agreement (CA)
- DEQ LUST staff will continue to maintain the EPA/DEQ CA.
- The CA includes a work plan to be funded at 90 percent by EPA's LUST Trust Fund.

Training
- The LUST staff requires training in several critical areas, including cleanup technologies, investigation, enforcement, cost recovery, and cleanup level determinations. These training areas are not currently well-covered by governmental training programs and a DEQ priority will be to identify and participate in such training events. The LUST staff have been developing a good working knowledge of the techniques applicable to the program and will continue to pursue these training and self-study efforts.

Site Cleanup Oversight/Management

- Major DEQ resources will be expended in 1991 on cleanup oversight and management. Staff is placing a high priority on obtaining productive guidance on soil/GW cleanup levels, cleanup technologies, and cost recovery.

Outreach

- Owners/operators and Regional staff will be advised of the latest program guidance and requirements through regular seminars, public meetings and presentations.

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ENVIRONMENTAL CLEANUP PROGRAM

Program Goal

To investigate sites where hazardous substances may have been released and provide the appropriate response to clean up contaminated sites.

Background

The 1987 Oregon Legislature passed the Environmental Cleanup Law (Senate Bill 122) to address the problem of hazardous substances that have been improperly disposed in Oregon. This law established a comprehensive framework for the DEQ to develop an Environmental Cleanup Program to investigate and clean up contamination from releases of hazardous substances, including petroleum products, throughout the state. The bill also established the Hazardous Substances Remedial Action Fund to cover the state's cleanup cost. This provides the state with authority and funding to address the need for clean-up at non-NPL sites and fully participate in the federal Superfund program. The state has entered into cooperative agreements for core program development, management assistance at NPL sites, and to carry out preliminary assessments and site investigations for sites listed on the CERCLA Inventory.

Priorities

The state of Oregon will continue to participate in the federal Superfund program while addressing non-NPL sites under the state's environmental cleanup program. This will include new rulemaking, continued staff training, lab support, and contract capability. Participation in the federal Superfund program will continue through cooperative agreements for management assistance on NPL sites and conducting preliminary assessments and site investigations for sites listed on the CERCLA Inventory. The state may also request lead agency status for non-fund financed sites on the NPL using state authorities and resources. The state will continue to develop and implement a program to conduct investigations, require clean-up by responsible parties, and take remedial action at uncontrolled hazardous waste sites.

DEQ has identified several priorities for the environmental cleanup program in FY 90 related to National Priority List site cleanup, increased participation in the federal Superfund program, and building state program capability.

Program Management and Administration

- Develop and enter into a Superfund Memorandum of Agreement (SMOA) between EPA and DEQ to facilitate communication and provide for mutual agreement on each agency's roles and responsibilities during CERCLA response activities.

- Renew and maintain the Core Program Cooperative Agreement to provide funds for CERCLA activities that are not assignable to specific sites, but support the state's site-specific response program, including training, contracts, planning, rules, policies and procedures advisory committees, PRP investigation capability, data management systems development and other support functions.

- Continue to develop staff capability, management and administrative procedures, and funding sources.

- Implement cleanup rules and establish procedures between DEQ and EPA to consult on the determination of state cleanup levels for NPL sites.

- Continue to develop the procedures for use of contractors and contract laboratory support, public participation, health and safety, and QA/QC.

- Participate with EPA in the SCAP and other planning processes to promote recognition and inclusion of Oregon sites in the federal cleanup program.

Site Assessment

- Continue to participate in the CERCLA site assessment program by conducting preliminary assessments and site investigations of Oregon CERCLIS sites through multi-site/multi-activity cooperative agreements.

Cleanup of National Priority List Sites

- Participate in remedial investigation/feasibility studies at Allied Plating, Joseph Forest Products, and Teledyne Wah Chang, and design and construction activities for Gould and the Teledyne Wah Chang Operable Unit through management assistance. Pursue state lead to conduct RI/FS activities at Union Pacific Railroad site (EPA will consider state requests for lead agency responsibility at NPL sites based on appropriate guidance, availability of funding, the level of state program development, and project status).

- Participate with EPA in the Interagency Agreement for Umatilla Army Depot and in the Consent Decree for Martin Marietta.

- Assist EPA in resolution of operation and maintenance and cost recovery issues at United Chrome Products site and participate in Phase II groundwater investigation.

- Participate at appropriate stage of investigation or cleanup at any new sites that are proposed or placed on the NPL. Pursue funds from EPA for new site activities.

- Receive training from EPA and other sources for cleanup-related activities including enforcement, administration, cost recovery, investigations, pre-remedial work and safety.

FY 91

DRAFT

SUMMARY OF PROGRAM RESOURCES

(July 1, 1990 - June 30, 1991)

PROGRAM	RESOURCES			
	Federal Grant Funds Requested	Non-Federal Required Match	Total	Staff FTE
°Air Quality Program	$1,768,658 (1,768,658)	$2,766,024 (2,766,024)	$4,534,682 (4,534,682)	70.89 (70.89)
°Water Quality Program				
- Section 106	$ 977,514 (977,514)	$ 512,951 (512,951)	$1,490,465 (1,490,465)	14.0 (14.0)
- Section 106 (GW)	$ 106,500 (106,500)	-0- (-0-)	$ 106,500 (106,500)	2.0 (2.0)
- Underground Injection Control (SDWA)	$ 107,700 (107,700)	$ 35,900 (35,900)	$ 143,600 (143,600)	1.4 (1.4)
- Water Quality (Section 319(h))	$ 268,509 (537,018)	$ 179,006 (358,012)	$ 447,515 (895,030)	1.0 (2.0)
°Hazardous Waste Program (RCRA)	$ 950,000 (550,000)	$ 316,666 (183,334)	$1,266,666 (733,334)	17.0 (13.8)
°Underground Storage Tanks (UST)	$ 225,000 (219,578)	$ 75,000 (73,193)	$ 300,000 (292,771)	5.94 (5.94)
FY 91 Totals	$4,403,881 * (4,266,968)	$3,885,547 (3,929,414)	$8,289,428 (8,196,382)	112.23 (110.03)

Note: The Construction Grants funds listed below will be applied for under separate grant rather than as part of the Consolidated Grant.

Construction Grants (Section 205(g))	$ 548,400 (548,400)	-0- (-0-)	$ 548,400 (548,400)	4.6 (4.6)

(FY 90 figures are in parentheses.)

The amounts shown in the left-hand column above are federal funds requested by DEQ to fully fund the related FY 91 (July 1, 1990, to June 30, 1991) workplan commitments presented in the Program Document. The requested federal amounts are consistent with available EPA guidance. Final FY 91 federal grant resources are not yet available. Once a budget is adopted and Congress appropriates funds, grant amounts and, as necessary, program commitments will be reviewed and adjusted accordingly.

*Gramm-Rudman Reductions and other Congressional actions could considerably reduce this figure.

BY7017 (5/06/90)

NEIL GOLDSCHMIDT
GOVERNOR

Environmental Quality Commission

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

REQUEST FOR EQC ACTION

Meeting Date: May 25, 1990
Agenda Item: C
Division: Air Quality
Section: Planning and Development

SUBJECT:

Air Quality State Implementation Plan (SIP): Adoption of Amendments to LRAPA Rules Title 15 "Enforcement Procedures and Civil Penalties," as a Revision to the Oregon SIP

PURPOSE:

Maintain the Lane Regional Air Pollution Authority (LRAPA) Rule portion of the SIP up-to-date.

ACTION REQUESTED:

___ Work Session Discussion
- ___ General Program Background
- ___ Potential Strategy, Policy, or Rules
- ___ Agenda Item ___ for Current Meeting
- ___ Other: (specify)

___ Authorize Rulemaking Hearing
_X_ Adopt Rules
- Proposed Rules — Attachment A
- Rulemaking Statements — Attachment B
- Fiscal and Economic Impact Statement — Attachment B
- Public Notice — Attachment C

___ Issue a Contested Case Order
___ Approve a Stipulated Order
___ Enter an Order
- Proposed Order — Attachment ___

___ Approve Department Recommendation
- ___ Variance Request — Attachment ___
- ___ Exception to Rule — Attachment ___
- ___ Informational Report — Attachment ___
- ___ Other: (specify) — Attachment ___

DESCRIPTION OF REQUESTED ACTION:

LRAPA enforcement procedure and civil penalty rules are a necessary part of the SIP. LRAPA has made some recent changes in these rules, including renumbering them from Title 13 to Title 15. In order to maintain the LRAPA portion of the SIP up-to-date, the Environmental Quality Commission (EQC, Commission) is requested to adopt the new LRAPA Title 15 as a revision to the SIP Rule (Oregon Administrative Rule (OAR) 340-20-047).

The rules established under new Title 15 articulate the LRAPA enforcement policy, clarify when civil penalties may be issued, and in what amounts. New Title 15 makes LRAPA enforcement and civil penalty procedures consistent with comparable Department of Environmental Quality (DEQ, Department) Rules OAR 340-12-026 adopted by the EQC, and effective March 14, 1990. Specifically, new Title 15 includes the following:

1. Establishes the LRAPA enforcement policy in rule form.

2. Describes the enforcement actions available to the Authority, and how and when they may be used.

3. Establishes a "Box Matrix System" for determining base penalties.

4. Establishes a formula related to mitigating and aggravating factors mandated by Oregon Revised Statutes (ORS) 468.139(2).

The Department has reviewed LRAPA Title 15 and has found it to be as stringent as and consistent with State Rules, the Strategic Plan, and Agency Policy.

With Department concurrence, LRAPA has acted as EQC Hearings Officer for this rule revision and has given the proper and necessary legal public notice. The Environmental Protection Agency (EPA) has informally reviewed LRAPA Title 15 and has found it to be acceptable.

The Commission is requested to adopt amended LRAPA Title 15 as a revision to the State Implementation Plan, and to direct the Department to submit the revised Plan to EPA for approval.

AUTHORITY/NEED FOR ACTION:

___	Required by Statute: _____ Enactment Date: _____	Attachment ___
___	Statutory Authority: _____	Attachment ___
X	Pursuant to Rule: OAR 340-20-047	Attachment ___
X	Pursuant to Federal Law/Rule: PL 95-95	Attachment ___
___	Other: Clean Air Act Amendments of 1977	Attachment ___
___	Time Constraints: (explain)	

DEVELOPMENTAL BACKGROUND:

___	Advisory Committee Report/Recommendation	Attachment ___
X	Hearing Officer's Report/Recommendations	Attachment D
X	Response to Testimony/Comments	Attachment D
___	Prior EQC Agenda Items: (list)	Attachment ___
X	Other Related Reports/Rules/Statutes:	Attachment E
X	Supplemental Background Information	Attachment F

REGULATED/AFFECTED COMMUNITY CONSTRAINTS/CONSIDERATIONS:

The adoption of new Title 15 modifies the LRAPA enforcement policy by rule, making it similar and consistent with new Department rules. The new enforcement and civil penalty procedures will provide the regulated community with a clear understanding of how civil penalties will be determined and assessed.

PROGRAM CONSIDERATIONS:

The consolidation and clarification of these rules will reduce LRAPA's costs, by diminishing the need for legal interpretation. It will also make LRAPA enforcement actions consistent with the Department's program.

ALTERNATIVES CONSIDERED BY THE DEPARTMENT:

1. Not to adopt amended Title 15 as a State Implementation Plan revision. This would make LRAPA Title 15 inconsistent with the current LRAPA enforcement and civil penalties rule portion of the State Implementation Plan.

2. Adopt as a State Implementation Plan revision, amended Title 15 in its entirety.

DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:

Adopt amended Lane Regional Air Pollution Authority Title 15 "Enforcement Procedure and Civil Penalties" in its entirety as a revision to the Oregon State Implementation Plan. Title 15 will provide a clearer, consistent, and objective way to apply LRAPA enforcement procedures and civil penalties.

CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE POLICY:

The amended rules are found to be consistent with the Strategic Plan and Agency Policy.

ISSUES FOR COMMISSION TO RESOLVE:

1. NONE

INTENDED FOLLOWUP ACTIONS:

The Department will forward the revised State Implementation Plan to the Environmental Protection Agency for approval.

Approved:

Section: John F. Kowalczyk

Division: Nick Nikkila

Director: Fred Hansen

Report Prepared By: David L. Collier

Phone: 229-5177

Date Prepared: May 7, 1990

DLC:a
WOOD/AH6023
(May, 1990)

PROPOSED AMENDMENTS
IN CONJUNCTION WITH
ADOPTION OF NEW TITLE 14
FEBRUARY 13, 1990
1

LANE REGIONAL AIR POLLUTION AUTHORITY

TITLE ~~13~~ 15

Enforcement Procedure and Civil Penalties

Section ~~13~~ 15-001 Policy

1. The goal of enforcement is to:

   A. Obtain and maintain compliance with the Authority's statutes, rules, permits and orders;

   B. Protect the public health and the environment;

   C. Deter future violators and violations; and

   D. Ensure appropriate and consistent enforcement.

2. Except as provided by ~~13~~ 15-015-4, the Authority will endeavor by conference, conciliation and persuasion to solicit compliance prior to initiating and following issuance of any enforcement action.

3. Subject to subsection 2 of this section, the Authority shall address all documented violations in order of seriousness at the most appropriate level of enforcement necessary to achieve the goals set forth in subsection 1 of this section, under the particular circumstances of each violation.

4. Violators who do not comply with initial enforcement action shall be subject to increasing levels of enforcement until compliance is achieved.

Section ~~13~~ 15-005 Definitions

These definitions are in addition to the general definitions contained in Title ~~14~~ 12 of these Rules and Regulations.

1. "Compliance" means meeting the requirements of the Authority's or other government agencies' rules, permits or orders.

2. "Documented Violation" means any violation which the Authority or other government agency verifies through observation, investigation or data collection.

3. "Enforcement" means any documented action taken to address a violation.

4. "Flagrant" means any documented violation where the respondent has actual knowledge of the law and has consciously set out to commit the violation.

5. "Formal Enforcement" means an administrative action signed by the Director or authorized representatives which is issued to a respondent on the basis that a violation has been documented, requiring the respondent to take specific action within a specified time frame and stating consequences for continued non-compliance.

6. "Intentional," when used with respect to a result or to conduct described by a statute, rule, permit, standard or order defining a violation, means that a person acts with a conscious objective to cause the result or to engage in the conduct so described.

7. "Magnitude of the Violation" means the extent of a violator's deviation from federal, state and the Authority's statutes, rules, standards, permits or orders, taking into account such factors as, but not limited to, concentration, volume, duration, toxicity, or proximity to human or environmental receptors. Deviations shall be categorized as major, moderate or minor, as follows:

   A. "Major" means a substantial deviation from the standard;

   B. "Moderate" means a significant deviation from the standard;

   C. "Minor" means a slight deviation from the standard.

8. "Order" means:

   A. Any action satisfying the definition given in ORS Chapter 183; or

   B. Any other action so designated in ORS Chapter 468.

9. "Prior Violation" means any violation established by payment of a civil penalty, by an order of default, or a stipulated or final order of the Authority.

10. "Respondent" means the person to whom a formal enforcement action is issued.

11. "Risk of Harm" means the level of risk to public health or the environment created by the likelihood of exposure, either individual or cumulative, or the actual damage, either individual or cumulative, caused by a violation. Risk of harm shall be categorized as major, moderate or minor levels.

12. "Violation" means a transgression of any statute, rule, order, license, permit, or any part thereof, and includes both acts and omissions. Violations shall be classed according to risk of harm as follows:

   A. "Class One or I" means any violation which poses a major risk of harm to public health or the environment, or violation of any compliance schedule contained in an agency permit or board order;

B. "Class Two or II" means any violation which poses a moderate risk of harm to public health or the environment;

C. "Class Three or III" means any violation which poses a minor risk of harm to public health or the environment.

Section ~~13~~ 15-010 Consolidation of Proceedings

Notwithstanding that each and every violation is a separate and distinct offense, and in cases of continuing violation, each day's continuance is a separate and distinct violation, proceedings for the assessment of multiple civil penalties for multiple violations may be consolidated into a single proceeding.

Section ~~13~~ 15-015 Notice of Violation

1. When the Director or his authorized agent, or the board has cause to believe that a violation has occurred, the Director may issue a Notice of Violation to the responsible party or respondent according to ORS 183 and these rules and regulations. Cause to believe a violation has occurred can be prima facie evidence based on first-hand observations, reports of observations by citizens or government officials, results of tests, instrument reading or any other evidence found to be sufficient to constitute cause to believe.

2. Except as provided in subsection 4 of this section, prior to the assessment of any civil penalty the Authority shall serve a Notice of Violation upon the respondent. Service shall be made when the notice is posted, addressed to or personally delivered to the respondent or a person designated by law as competent to receive service for the respondent. Generally, the notice shall be personally delivered or sent by registered or certified mail.

3. The prior Notice of Violation shall be in writing, specify the violation and state that the Authority will assess a civil penalty if the violation continues or occurs after five days following receipt of the notice.

4. The following are exceptions:

   A. Notice of Violation prior to assessing a civil penalty shall not be required where the respondent has otherwise received a documented actual notice not less than five days prior to the violation for which a penalty is assessed.

   B. No advance notice, written or actual, shall be required under subsections 2 and 3 of this section if:

      (1) The act or omission constituting the violation is intentional;

(2) The air pollution contamination source would normally not be in existence for five days;

(3) The air pollution contamination source might leave or be removed from the jurisdiction of the Authority;

(4) The penalty to be imposed is for a violation of Section 43-015 relating to the control of asbestos fiber releases into the environment, or rules adopted thereafter.

Section ~~13~~ 15-020 Enforcement Actions

1. Notice of Non-compliance. An enforcement action which:

   A. Informs a person of the existence of a violation, the actions required to resolve the violation and the consequences of continued non-compliance. The notice may specify a time by which compliance is to be achieved and that the need for formal enforcement action will be evaluated;

   B. Shall be issued under the direction of the Director or authorized representative;

   C. Shall be issued for, but is not limited to, all classes of documented violations.

   D. Satisfies the requirements of ~~13~~ 15-001-2.

2. Notice of Violation and Intent to Assess a Civil Penalty. A formal enforcement action which:

   A. Is issued pursuant to Section ~~13~~ 15-015;

   B. May include a time schedule by which compliance is to be achieved;

   C. Shall be issued by the Director;

   D. Shall be issued for, but is not limited to, the first occurrence of a documented Class One violation which is not excepted under Sub-Section ~~13~~ 15-015-4, or the repeated or continuing occurrence of documented Class Two or Three violations where a Notice of Non-compliance has failed to achieve compliance by the respondent.

   E. Satisfies the requirements of ~~13~~ 15-001-2.

3. Notice of Civil Penalty Assessment. A formal enforcement action which:

   A. Is issued pursuant to ORS 468.135 and Sections ~~13~~ 15-025 and ~~13~~ 15-030;

B. Shall be issued by the Director;

C. May be issued for, but is not limited to, the occurrence of any class of documented violation excepted by Sub-Section ~~13~~ 15-015-4, for any class of repeated or continuing documented violations or where a person has failed to comply with a Notice of Violation and Intent to Assess a Civil Penalty or an Order of the board.

4. Enforcement Order. A formal enforcement action which:

A. Is issued pursuant to ORS Chapters 183 or 468;

B. May be in the form of a Board Order, Director Order or a Stipulated Final Order;

(1) Board Orders shall be issued by the Board of Directors (Board), or by the Director on behalf of the Board;

(2) Director Orders shall be issued by the Director;

(~~2~~ 3) Stipulated Final Orders:

(a) May be negotiated between the Authority and the subject party;

(b) Shall be signed by the Director on behalf of the Authority and the authorized representative of the subject party; and

(c) Shall be approved by the Board or by the Director on behalf of the Board.

C. May be issued for any class of violations.

5. The formal enforcement actions described in subsections 1 through 4 of this section shall not limit the Authority from seeking legal or equitable remedies in the proper court as provided by ORS Chapter 468.

Section ~~13~~ 15-025 Civil Penalty Schedule Matrices

1. In addition to any liability, duty or other penalty provided by law, the Director may assess a civil penalty for any violation pertaining to the Authority's rules, regulations, permits or orders by service of a written Notice of Assessment of Civil Penalty upon the respondent. The amount of any civil penalty shall be determined through the use of the following matrices in conjunction with the formula contained in Section ~~13~~ 15-030:

A. $10,000 Matrix

$10,000 Matrix
<---------- Magnitude of Violation

CLASS of VIOLATION	Major	Moderate	Minor
Class I	$5,000	$2,500	$1,000
Class II	$2,000	$1,000	$ 500
Class III	$ 500	$ 250	$ 100

No civil penalty issued by the Director pursuant to this matrix shall be less than fifty dollars ($50) or more than ten thousand dollars ($10,000) for each day of each violation. This matrix shall apply to the following types of violations:

(1) Any violation related to air quality statutes, rules, permits or orders, except for residential open burning;

(2) Any violation related to ORS 468.875, 468.899 or LRAPA Title 43, relating to asbestos abatement projects.

B. $500 Matrix

$500 Matrix
<---------- Magnitude of Violation

CLASS of VIOLATION	Major	Moderate	Minor
Class I	$400	$300	$200
Class II	$300	$200	$100
Class III	$200	$100	$ 50

No civil penalty issued by the Director pursuant to this matrix shall be less than fifty dollars ($50) or more than five hundred dollars ($500) for each day of each violation. This matrix shall apply to the following types of violations:

(1) Any violation related to residential open burning.

Section ~~13~~ 15-030 Civil Penalty Determination Procedure (Mitigating and Aggravating Factors)

1. When determining the amount of civil penalty to be assessed for any violation, the Director shall apply the following procedures:

   A. Determine the class of violation and the magnitude of each violation;

   B. Choose the appropriate base penalty established by the matrices of Section ~~13~~ 15-025 based upon the above finding:

   C. Starting with the base penalty (BP), determine the amount of penalty through application of the formula BP + [(.1 x BP)(P + H + E + O + R + C)] where:

(1) "P" is whether the respondent has any prior violations of statutes, rules, orders and permits pertaining to environmental quality or pollution control. The values for "P" and the finding which supports each are as follows:

(a) 0 if no prior violations or insufficient information on which to base a finding;

(b) 1 if the prior violation is an unrelated Class Three;

(c) 2 if the prior violation(s) is an unrelated Class Two, two unrelated Class Threes or an identical Class Three;

(d) 3 if the prior violation(s) is an unrelated Class One, three unrelated Class Threes or two identical Class Threes;

(e) 4 if the prior violations are two unrelated Class Twos, four unrelated Class Threes, an identical Class Two or three identical Class Threes;

(f) 5 if the prior violations are five unrelated Class Threes or four identical Class Threes;

(g) 6 if the prior violations are two or more unrelated Class Ones, three or more unrelated Class Twos, six or more unrelated Class Threes, an identical Class One, two identical Class Twos or five identical Class Threes;

(h) 8 if the prior violations are two or more identical Class Ones, three or more identical Class Twos, or six or more identical Class Threes.

(2) "H" is past history of the respondent taking all feasible steps or procedures necessary or appropriate to correct any prior violations. The values for "H" and the finding which supports each are as follows:

(a) -2 if violator took all feasible steps to correct any violation;

(b) 0 if there is no prior history or insufficient information on which to base a finding;

(c) 1 if violator took some, but not all, feasible steps to correct a Class Two or Three violation;

(d) 2 if violator took some, but not all, feasible steps to correct a Class One violation;

(e) 3 if no action was taken to correct prior violations.

(3) "E" is the economic condition of the respondent. The values for "E" and the finding which supports each are as follows:

(a) 0 to -2 if economic condition is poor, subject to subsection (4) of this section, or the respondent gained no economic benefit through non-compliance;

(b) 0 if there is insufficient information on which to base a finding or the respondent gained no economic benefit (condition) through non-compliance;

(c) 2 if economic condition is good and the respondent gained a minor to moderate economic benefit through non-compliance;

(d) 4 if the respondent gained a significant economic benefit through non-compliance.

(4) "O" is whether the violation was a single occurrence or was repeated or continuous during the period resulting in the civil penalty assessment. The values for "O" and the finding which supports each are as follows:

(a) 0 if single occurrence;

(b) 2 if repeated or continuous.

(5) "R" is whether the violation resulted from an unavoidable accident, or a negligent or intentional act of the respondent. The values for "R" and the finding which supports each are as follows:

(a) -2 if unavoidable accident;

(b) 0 if insufficient information to make any other finding;

(c) 2 if negligent;

(d) 4 if grossly negligent;

(e) 6 if intentional;

(f) 10 if flagrant.

(6) "C" is the violator's cooperativeness in correcting the violation. The values for "C" and the finding which supports each are as follows:

(a) -2 if violator is cooperative;

(b) 0 if violator is neither cooperative nor uncooperative or there is insufficient information on which to base a finding;

(c) 2 if violator is uncooperative.

2. In addition to the factors listed in subsection (1) of this rule, the Director may consider any other relevant rule of the Authority and shall state the effect the consideration had on the penalty. On review, the Board shall consider the factors contained in subsection (1) of this rule and any other relevant rule of the Authority.

3. If the Director or the Board, on review, find that the economic benefit of non-compliance exceeds the amount represented by the "4" in subsection (1)(C)(3)(d) of this section, the penalty may be increased by the amount of economic gain, as long as the penalty does not exceed the maximum penalty allowed by rule and statute.

4. In any contested case proceeding or settlement in which respondent has raised economic condition as an issue, respondent has the responsibility of providing written or other documentary evidence concerning its economic condition. In determining whether to mitigate a penalty based on economic condition, the Director or the Board, on review, may consider the causes and circumstances of respondent's economic condition.

Section ~~13~~ 15-035 Written Notice of Assessment of Civil Penalty--When Penalty Payable

1. A civil penalty shall be due and payable when the respondent is served a written notice of assessment of civil penalty signed by the Director. Service shall be in the same way as for a Notice of Violation, Section ~~13~~ 15-015-2.

2. The written notice of assessment of civil penalty shall substantially follow the form prescribed by ~~rule Section 42 300~~ ORS 183.415(2) for a notice of opportunity for a hearing in a contested case and shall state the amount of the penalty or penalties assessed.

3. The rules prescribing procedure in contested case proceedings contained in ORS 183.413 through 183.497 and in LRAPA Title ~~42~~ 14 shall apply thereafter.

Section ~~13~~ 15-040 Compromise or Settlement of Civil Penalty by Director

Any time subsequent to service of the written notice of assessment of civil penalty, the Board or Director may compromise or settle any unpaid civil penalty at any amount that the Board or Director deems appropriate. Any compromise or settlement executed by the Director shall not be final until approved by the Board.

Section ~~13~~ 15-045 Stipulated Penalties

Nothing in Title ~~13~~ 15 shall affect the ability of the Board or Director to include stipulated penalties in a Stipulated Final Order or any agreement issued pursuant to ORS Chapter 468.

Section ~~13~~ 15-050 Air Quality Classification of Violation

Violations pertaining to air quality shall be classified as follows:

1. Class One

   A. Exceeding an allowable emission level such that an ambient air quality standard is exceeded;

   B. Exceeding an allowable emission level such that emissions of potentially dangerous amounts of a toxics or otherwise hazardous substance are emitted;

   C. Causing emissions that are potentially a hazard to public safety;

   D. Failure to comply with Emergency Action Plans or allowing excessive emissions during emergency episodes;

   E. Constructing or operating a source without a valid Air Contaminant Discharge Permit;

   F. Modifying a source with an Air Contaminant Discharge Permit without first notifying and receiving approval from the Authority;

   G. Violation of a compliance schedule in a permit;

   H. Violation of a work practice requirement which results in or creates the likelihood for public exposure to asbestos or release of asbestos into the environment;

   I. Storage of friable asbestos material or asbestos-containing waste material from an asbestos abatement project which results in or creates the likelihood for public exposure to asbestos or release of asbestos into the environment;

   J. Visible emissions of asbestos during an asbestos abatement project or during collection, processing, packaging, transportation or disposal of asbestos-containing waste material;

   K. Violation of a disposal requirement for asbestos-containing waste material which results in or creates the likelihood of exposure to asbestos or release of asbestos into the environment;

L. Illegal open burning of materials prohibited by Sub-Section 47-015-1.E;

M. Violation of an Order;

N. Any other violation related to air quality which poses a major risk to public health or the environment.

2. Class Two

A. Allowing discharges of a magnitude that, though not actually likely to cause an ambient air violation, may have endangered citizens;

B. Exceeding emission limitations in permits or air quality rules;

C. Exceeding opacity limitations in permits or air quality rules;

D. Violating standards for fugitive dust, particulate deposition or odors in permits or air quality rules;

E. Illegal open burning, not otherwise classified;

F. Illegal residential open burning;

G. Failure to report upset or breakdown of air pollution control equipment;

H. Violation of a work practice requirement for asbestos abatement projects which are not likely to result in public exposure to asbestos or release of asbestos into the environment;

I. Improper storage of friable asbestos material or asbestos-containing waste material from an asbestos abatement project which is not likely to result in public exposure to asbestos or release of asbestos into the environment;

J. Violation of a disposal requirement for asbestos-containing waste material which is not likely to result in pubic exposure to asbestos or release of asbestos to the environment;

K. Conduct of an asbestos abatement project by a contractor not licensed as an asbestos abatement contractor;

L. Failure to provide notification of an asbestos abatement project;

M. Any other violation related to air quality which poses a moderate risk of harm to public health or the environment.

3. Class Three

   A. Failure to file a Notice of Construction or permit application;

   B. Failure to report as a condition of a compliance order or permit;

   C. Improper notification of an asbestos abatement project;

   D. Failure to comply with asbestos abatement certification, licensing, certification, or accreditation requirements not elsewhere classified;

   E. Failure to notify Authority of an emission limit violation on a timely basis;

   F. Failure to submit annual or monthly reports required by rule or permit;

   G. Any other violation related to air quality which poses a minor risk of harm to public health or the environment.

Section ~~13~~ 15-055 Scope of Applicability

The amendments to Title ~~13~~ 15 shall only apply to formal enforcement actions issued by the Authority on or after the effective date of such amendments and not to any cases pending or formal enforcement actions issued prior to the effective date of such amendments. Any cases pending or formal enforcement actions issued prior to the effective date of the amendments shall be subject to various sections of the LRAPA Rules and Regulations, as prior to amendment.

Section ~~13~~ 15-060 Appeals

1. Any person who is issued a corrective action order or who is assessed with a civil penalty under ~~Section 13-025~~ Title 15 may appeal such order or penalty to the Authority within fifteen (15) days of the date of mailing of the notice. The hearing and appeal shall be conducted according to Title~~s 42, 44 and 45~~ 14 of these rules.

2. In reviewing the ~~corrective action~~ order or the penalty assessed by the Director, the Hearings Officer shall consider the factors set forth in Section ~~13~~ 15-030, the findings of the Director and the evidence and argument presented at the hearing. The Hearings Officer shall make findings as to those factors deemed to be significant.

3. Unless the issue is raised in respondent's answer to the ~~corrective action~~ order or notice of assessment of civil penalty, the Hearings Officer may presume that the economic and financial conditions of respondent would allow imposition of the penalty assessed by the Director. At the hearing, the burden of proof and the burden of coming forward with evidence regarding the respondent's economic and financial condition shall be upon the respondent.

4. If a timely request for a hearing is not received by the Authority, the Director may issue a final order upon default based upon a prima facie case as provided in Sections ~~42-310~~ 14-175.4.C and ~~42-325~~ 14-205.2. If the penalty is not paid within ten (10) days of issuance of the final order, the order shall constitute a judgement and may be filed as provided in ORS 468.135(4).

LANE REGIONAL AIR POLLUTION AUTHORITY

STATEMENT OF NEED FOR PROPOSED RULE AMENDMENTS

PROPOSED CHANGE IN TITLE 13

Propose to rescind existing Title 13, "Enforcement Procedures," and replace it with amended version, consistent with newly-adopted state rules.

Pursuant to ORS 183.335(2), the following statement provides information on the proposed action to amend Oregon's Revised State Implementation Plan (SIP).

STATEMENT OF NEED

Legal Authority

OAR 340-12, ORS 183.310-550, ORS 468.020, ORS 468.100(3) and (4), ORS 468.135, ORS 468.140, ORS 468.505, ORS 468.535, and the Federal Clean Air Act Amendments of 1977 (PL 95-95).

Need for Amendments

The need for rule amendments is to make LRAPA's civil penalty schedule conform with recently-adopted state regulations, pursuant to ORS 468.130, and to provide better structure to the agency's enforcement procedures.

Principal Documents Relied Upon

1. State of Oregon State Implementation Plan
2. LRAPA Title 13, "Enforcement Procedures"
3. LRAPA Staff Report to Board of Directors, May 23, 198
4. Clean Air Act Amendments of 1977 (PL 95-95)
5. ORS 183, et. seq.
6. ORS 468, et. seq.
7. OAR 340-12

FISCAL AND ECONOMIC IMPACT STATEMENT

Fiscal impact affects any person or persons violating Rules and Regulations of the Lane Regional Air Pollution Authority. The matrix system proposed will provide a consistent, systematic way of setting civil penalties for different classes of violations.

LAND USE CONSISTENCY STATEMENT

The proposed rules do not affect land use as described in any applicable land use plan in Lane County.

DRA/MJD
05/24/89

OREGON INTERGOVERNMENTAL PROJECT REVIEW

State Clearinghouse
Intergovernmental Relations Division
155 Cottage Street N. E.
Salem, Oregon 97310
373-7652

C O N C L U S I O N S

APPLICANT: Lane Regional Air Pollution

PROJECT TITLE: Implementation Plan Revision

DATE: July 3, 1989

The State of Oregon (and local clearinghouses if listed) has reviewed your project and reached the following conclusions:

[X] No significant conflict with the plans, policies or programs of state or local government have been identified.

[ ] Relevant comments of state agencies and/or local governments are attached and should be considered in the final design of your proposal.

[ ] Potential conflicts with the plans and programs of state and/or local government:

  [ ] may exist.

  [ ] have been identified and remain unresolved. The final proposal has been reviewed and final comments and recommendations are attached.

  [ ] have been satisfactorily resolved. No significant issues remain.

==========

A copy of this notification and attachments, if any, must accompany your application to the federal agency.

FEDERAL CATALOG # 66.

NOTICE TO FEDERAL AGENCY

THE FOLLOWING IS THE OFFICIALLY ASSIGNED STATE IDENTIFIER NUMBER

ORC

Dolores Streeter
Clearinghouse Coordinator

IPR #3

NOTICE OF INTENT TO ADOPT RULES AND TO AMEND OREGON'S AIR QUALITY IMPLEMENTATION PLAN

In accordance with Title 42 of the Lane Regional Air Pollution Authority (LRAPA) Rules and Regulations, the Board of Directors is proposing:

To rescind existing Title 13, "Enforcement Procedures" and adopt a new, expanded version, "Enforcement Procedures and Civil Penalties," to align LRAPA rules with recently-adopted amendments to the state's rules and to add better structure to the agency's enforcement system.

WHO IS AFFECTED: Persons who violate Rules and Regulations of the Lane Regional Air Pollution Authority.

PUBLIC HEARING:

Public hearing on the above rule amendments will be held before the LRAPA Board of Directors at its regular meeting on Tuesday, July 11, 1989.

Location: Springfield City Hall
225 North 5th Street
Springfield, OR 97477

Time: 12:15 p.m.

Copies of the proposed amendments, as well as Statements of Need and Fiscal Impact, are available for review at the LRAPA office located at 225 North 5th, Suite 501 (Springfield City Hall building) until July 11. The public may comment on the proposed regulations by calling the LRAPA business office, 726-2514; and written comment may be submitted until July 10, 1988, to 225 North 5th, Suite 501.

To Be Published: Wednesday, June 7, 1989

GUARD PUBLISHING COMPANY

P. O. BOX 10188 PHONE (503) 485-1234
EUGENE, OREGON 97440

Legal Notice

Legal Notice Advertising

- Lane Regional Air Pollution
  225 North 5th
- Suite 501
  Springfield, OR 97477
-

- ☐ Tearsheet Notice
- ☐ Duplicate Affidavit
-

AFFIDAVIT OF PUBLICATION

STATE OF OREGON,)
COUNTY OF LANE,) ss.

I, Wendy L. Walsh

being first duly sworn, depose and say that I am the Advertising Manager, or his principal clerk, of the Eugene Register-Guard, a newspaper of general circulation as defined in ORS 193.010 and 193.020; published at Eugene in the aforesaid county and state; that the NOTICE OF INTENT TO ADOPT RULES,

a printed copy of which is hereto annexed, was published in the entire issue of said newspaper for ONE successive and consecutive DAY in the following issues:

June 7, 1989

Wendy L. Walsh

Subscribed and sworn to before me this JUNE 8, 1989

Jean A. Crawford
Notary Public for Oregon

JEAN A. CRAWFORD
NOTARY PUBLIC - OREGON
My Commission Expires June 30, 1991

My Commission Expires:

AFFIDAVIT

NOTICE OF INTENT TO ADOPT RULES AND TO AMEND OREGON'S AIR QUALITY IMPLEMENTATION PLAN

In accordance with Title 42 of the Lane Regional Air Pollution Authority (LRAPA) Rules and Regulations, the Board of Directors is proposing:

To rescind existing Title 13, "Enforcement Procedures" and adopt a new, expanded version, "Enforcement Procedures and Civil Penalties," to align LRAPA rules with recently-adopted amendments to the state's rules and to add better structure to the agency's enforcement system.

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Location: Springfield City Hall, 225 North 5th Street, Springfield, OR 97477. Time: 12:15 p.m.

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No. 15796 — June 7, 1989

NOTICE OF INTENT TO ADOPT RULES AND TO AMEND OREGON'S AIR QUALITY IMPLEMENTATION PLAN

In accordance with Title 42 of the Lane Regional Air Pollution Authority (LRAPA) Rules and Regulations, the Board of Directors is proposing:

To rescind existing Title 13, "Enforcement Procedures" and adopt a new, expanded version, "Enforcement Procedures and Civil Penalties," to align LRAPA rules with recently-adopted amendments to the state's rules and to add better structure to the agency's enforcement system.

WHO IS AFFECTED: Persons who violate Rules and Regulations of the Lane Regional Air Pollution Authority.

PUBLIC HEARING: Public hearing on the above rule amendments will be held before the LRAPA Board of Directors at its regular meeting on Tuesday, July 11, 1989.

Location: Springfield City Hall, 225 North 5th Street, Springfield, OR 97477. Time: 12:15 p.m.

Copies of the proposed amendments, as well as Statements of Need and Fiscal Impact, are available for review at the LRAPA office located at 225 North 5th, Suite 501 (Springfield City Hall building) until July 11. The public may comment on the proposed regulations by calling the LRAPA business office, 726-2514; and written comment may be submitted until July 10, 1989, to 225 North 5th, Suite 501.

To Be Published: Wednesday, June 7, 1989

j.7 (462)

Affidavit of Publication

STATE OF OREGON, COUNTY OF LANE - ss

I, Leota J. Emery, being duly sworn, depose and say that I am the Legal Clerk of the Springfield News, a newspaper of general circulation, as defined by ORS 193.010 and 193.020; printed and published at Springfield in the aforesaid county and state: that the

Notice of Intent to Adopt Rules and to Amend Oregon's Air Quality Implementation Plan.

a printed copy of which is hereto annexed, was published in the entire issue of said newspaper for successive and consecutive weeks in the following issues:

June 7, 1989

THE SPRINGFIELD NEWS

By Leota J. Emery

Subscribed and sworn to me this 8th day of June 19 89

Notary Public for Oregon

(My Commission expires May 17, 1991)

NOTICE OF INTENT
TO ADOPT RULES
AND TO AMEND OREGON'S
QUALITY
IMPLEMENTATION PLAN

In accordance with Title 42 of the Lane Regional Air Pollution Authority (LRAPA) Rules and Regulations, the Board of Directors is proposing:

To rescind existing Title 13, "Enforcement Procedures" and adopt a new expanded version, "Enforcement Procedures and Civil Penalties," to align LRAPA rules with recently-adopted amendments to the state's rules and to add better structure to the agency's enforcement system.

WHO IS AFFECTED: Persons who violate Rules and Regulations of the Lane Regional Air Pollution Authority.

PUBLIC HEARING:

Public hearing on the above rule amendments will be held before the LRAPA Board of Directors at its regular meeting on Tuesday, July 11, 1989.

LOCATION:
Springfield City Hall
225 North 5th Street
Springfield, OR 97477
TIME: 12:15 p.m.

Copies of the proposed amendments, as well as Statements of Need and Fiscal Impact, are available for review at the LRAPA office located at 225 North 5th, Suite 501 (Springfield City Hall building) until July 11. The public may comment on the proposed regulations by calling the LRAPA business office, 726-2514; and written comment may be submitted until July 10, 1989, to 225 North 5th, Suite 501.

44-1lc

Affidavit of Publication

STATE OF OREGON }
COUNTY OF LANE } ss.

I, Jim McChesney, being first duly sworn, depose and say that I am business manager of The Cottage Grove Sentinel, a newspaper of general circulation, as defined by ORS 193,010 and 193,020, printed and published at Cottage Grove in the aforesaid county and state; that Notice of Intent

a printed copy of which is hereto annexed, was published once a week in the entire issue of said newspaper for one successive and consecutive weeks in the following issues: June 14, 1989

Jim McChesney

Subscribed and sworn to before me this 14th day of June, 1989

Notary Public for Oregon

(Notary Public for Oregon)

(My commission expires Oct. 3, 1989)

OMB Approval No. 29-R0218

FEDERAL ASSISTANCE

1. TYPE OF ACTION (Mark appropriate box)
- [ ] PREAPPLICATION
- [X] APPLICATION
- [ ] NOTIFICATION OF INTENT (Opt.)
- [ ] REPORT OF FEDERAL ACTION

2. APPLICANT'S APPLICATION — a. NUMBER: ; b. DATE (Year month day): 19 89 05 24

3. STATE APPLICATION IDENTIFIER — a. NUMBER: ; b. DATE ASSIGNED (Year month day): 19

Leave Blank

SECTION I—APPLICANT/RECIPIENT DATA

4. LEGAL APPLICANT/RECIPIENT
- a. Applicant Name: Lane Regional Air Pollution Authority
- b. Organization Unit:
- c. Street/P.O. Box: 225 North 5th, Suite 501
- d. City: Springfield
- e. County: Lane
- f. State: Oregon
- g. ZIP Code: 97477
- h. Contact Person (Name & telephone No.): Donald R. Arkell (503) 726-2514

5. FEDERAL EMPLOYER IDENTIFICATION NO.:

6. PROGRAM (From Federal Catalog) — a. NUMBER: ; b. TITLE:

7. TITLE AND DESCRIPTION OF APPLICANT'S PROJECT

Revision to Oregon State Implementation Plan

°Adoption of amended version of Title 13, "Enforcement Procedures"

8. TYPE OF APPLICANT/RECIPIENT
A–State; B–Interstate; C–Substate District; D–County; E–City; F–School District; G–Special Purpose District; H–Community Action Agency; I–Higher Educational Institution; J–Indian Tribe; K–Other (Specify): Local Air Pollution Authority

Enter appropriate letter: K

9. TYPE OF ASSISTANCE
A–Basic Grant; B–Supplemental Grant; C–Loan; D–Insurance; E–Other: N/A

Enter appropriate letter(s):

10. AREA OF PROJECT IMPACT (Names of cities, counties, States, etc.): Lane County

11. ESTIMATED NUMBER OF PERSONS BENEFITING: 250,000

12. TYPE OF APPLICATION
A–New; B–Renewal; C–Revision; D–Continuation; E–Augmentation

Enter appropriate letter: C

13. PROPOSED FUNDING

a. FEDERAL	$ N/A .00
b. APPLICANT	N/A .00
c. STATE	N/A .00
d. LOCAL	N/A .00
e. OTHER	N/A .00
f. TOTAL	$ N/A .00

14. CONGRESSIONAL DISTRICTS OF:
- a. APPLICANT: 4th
- b. PROJECT: County-wide

15. TYPE OF CHANGE (For 11c or 11e)
A–Increase Dollars; B–Decrease Dollars; C–Increase Duration; D–Decrease Duration; E–Cancellation; F–Other (Specify): N/A

Enter appropriate letter(s):

16. PROJECT START DATE (Year month day): 19 89 07 11

17. PROJECT DURATION: on-going Months

18. ESTIMATED DATE TO BE SUBMITTED TO FEDERAL AGENCY (Year month day): 19 89 10 --

19. EXISTING FEDERAL IDENTIFICATION NUMBER:

20. FEDERAL AGENCY TO RECEIVE REQUEST (Name, City, State, ZIP code): U. S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle WA 98101

21. REMARKS ADDED: [X] Yes [ ] No

SECTION II—CERTIFICATION

22. THE APPLICANT CERTIFIES THAT ▶
a. To the best of my knowledge and belief, data in this preapplication/application are true and correct, the document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is approved.

b. If required by OMB Circular A-95 this application was submitted, pursuant to instructions therein, to appropriate clearinghouses and all responses are attached:

	No response	Response attached
(1)	[ ]	[ ]
(2)	[ ]	[ ]
(3)	[ ]	[ ]

23. CERTIFYING REPRESENTATIVE
- a. TYPED NAME AND TITLE: Donald R. Arkell, Director
- b. SIGNATURE: Donald R. Arkell
- c. DATE SIGNED (Year month day): 19 89 05 24

SECTION III—FEDERAL AGENCY ACTION

24. AGENCY NAME:

25. APPLICATION RECEIVED (Year month day): 19

26. ORGANIZATIONAL UNIT:

27. ADMINISTRATIVE OFFICE:

28. FEDERAL APPLICATION IDENTIFICATION:

29. ADDRESS:

30. FEDERAL GRANT IDENTIFICATION:

31. ACTION TAKEN
- [ ] a. AWARDED
- [ ] b. REJECTED
- [ ] c. RETURNED FOR AMENDMENT
- [ ] d. DEFERRED
- [ ] e. WITHDRAWN

32. FUNDING

a. FEDERAL	$ .00
b. APPLICANT	.00
c. STATE	.00
d. LOCAL	.00
e. OTHER	.00
f. TOTAL	$ .00

33. ACTION DATE ▶ (Year month day): 19

34. STARTING DATE (Year month day): 19

35. CONTACT FOR ADDITIONAL INFORMATION (Name and telephone number):

36. ENDING DATE (Year month day): 19

37. REMARKS ADDED: [ ] Yes [ ] No

38. FEDERAL AGENCY A-95 ACTION
a. In taking above action, any comments received from clearinghouses were considered. If agency response is due under provisions of Part I, OMB Circular A-95, it has been or is being made.

b. FEDERAL AGENCY A-95 OFFICIAL (Name and telephone no.):

424-101

STANDARD FORM 424 PAGE 1 (10-75)
Prescribed by GSA, Federal Management Circular 74-7

SECTION IV–REMARKS *(Please reference the proper item number from Sections I, II or III, if applicable)*

16. Public hearing to be held July 11, 1989. Adoption of rules anticipated same date.

19 and 20. After proposed rule amendments are adopted by Board of Directors of Lane Regional Air Pollution Authority, they will be submitted to State of Oregon Environmental Quality Commission. If EQC approves rules, the state will submit rules to the U. S. Environmental Protection Agency for approval as amendment to Oregon's State Implementation Plan.

LANE REGIONAL

AIR POLLUTION AUTHORITY

(503) 726-2514
225 North 5th, Suite 501, Springfield, OR 97477

Donald R. Arkell, Director

To: Environmental Quality Commission

From: Donald R. Arkell, Hearings Officer

Subject: Report of Public Hearing Held July 11, 1989, Concerning Proposed Adoption of Rules for Enforcement Procedures, LRAPA Title 13

Summary of Procedure

Pursuant to public notice, a public hearing was convened by Donald R. Arkell, LRAPA Director and hearings officer for the LRAPA Board of Directors, at 12:35 p.m. on July 11, 1989 in the Springfield City Council Chamber at 225 North 5th, Springfield. LRAPA had received designation from the DEQ Director as hearings officer for the Oregon Environmental Quality Commission, and this was a concurrent EQC/LRAPA hearing. The purpose of the hearing was to receive testimony concerning proposed amendments to LRAPA Title 13, "Enforcement Procedures." The only persons in attendance were the hearings officer and the recording secretary.

Summary of Testimony

The only testimony was verbal comment from LRAPA legal counsel Timothy Sercombe, received prior to the hearing. The proposal was to rescind the existing Title 13 in its entirety. For ease of transition between these rule changes and anticipated changes to Title 42, "Rules of Practice and Procedure, Hearing Procedure," Sercombe suggested that Section 13-025, "Appeals," should be retained and renumbered to 13-060. The record also contains affidavits of publication of hearing notice in three Lane County papers. The hearing record remained open until July 21 to receive any further testimony. No further comments were received. The proposed rules were amended to reflect legal counsel's suggestions.

Action by the LRAPA Board of Directors

On August 8, 1989, based on the proposal and statement of need, and having reviewed the record of hearing, the LRAPA Board of Directors voted unanimously to rescind existing Title 13, retaining the language of Section 13-025 and adopt the new Title 13 with Section 060, "Appeals," included. The board directed that the rule be forwarded to the commission for adoption as a revision to the Oregon State Implementation Plan.

DRA/MJD

LANE REGIONAL

AIR POLLUTION AUTHORITY

(503) 726-2514
225 North 5th, Suite 501, Springfield, OR 97477

Donald R. Arkell, Director

August 14, 1989

Nick Nikkila, Administrator
Air Quality Division
Dept. of Environmental Quality
811 S. W. Sixth Avenue
Portland, OR 97204

Re: EQC Approval of Recently-Adopted LRAPA Rules

Dear Nick:

At its August 8, 1989 meeting, the LRAPA Board of Directors adopted the following amendment to LRAPA rules:

> LRAPA Title 13, "Enforcement Procedures." Existing Title 13 rescinded, retaining language of Section 025, "Appeals." New Title 13 adopted, with Section 025 renumbered to 060.

The hearing on these rules was a concurrent LRAPA/EQC hearing, as authorized by Fred Hansen (see attached correspondence). Due to lack of a quorum for the July 11 board meeting, I was appointed as hearings officer for the LRAPA board so that the hearing could be held on the scheduled date. The adopted rules and support documentation are being forwarded to you for submittal to the EQC for approval.

Copies of the following are attached: the rules, staff reports, affidavits of publication of notice of hearing, A-95 project review forms, statement of need, the minutes of the August 8 meeting and hearings officer's report of the July 11 public hearing.

Please let me know soon if you have questions or need additional information.

Sincerely,

Donald R. Arkell
Director

DRA/mjd

Enclosures

c: Sarah Armitage

LANE REGIONAL

AIR POLLUTION AUTHORITY

(503) 726-2514
225 North 5th, Suite 501, Springfield, OR 97477

Donald R. Arkell, Director

May 24, 1989

Nick Nikkila, Administrator
Air Quality Division
Dept. of Environmental Quality
811 S. W. Sixth Avenue
Portland, OR 97204

Re: Proposed Amendment, LRAPA Title 13

Dear Nick:

The LRAPA Board of Directors has authorized public hearing on the following rules at its July 11, 1989 meeting:

- LRAPA 13, "Enforcement Procedures," to rescind existing rule and adopt a new expanded version, "Enforcement Procedures and Civil Penalties." The proposed version is based on recently-adopted state rules and would provide a consistent statewide civil penalty schedule.

Attached are copies of the proposed rules, staff report, public notice and statement of need.

As part of the SIP, these rules require EQC approval. In order to streamline the rulemaking process, I am also requesting authority to serve as hearings officer for EQC, so that the hearing scheduled for July 11 can be a concurrent EQC/LRAPA hearing.

The proposals for these amendments have been forwarded to the State A-95 Coordinator in Salem and to Lane Council of Governments for A-95 review. I have also provided this information to Sarah Armitage with a request that she review our proposal for stringency requirements and compatibility with DEQ rules. It is anticipated that the rules will be adopted on July 11, if no adverse testimony is received. I would appreciate receiving any comments or written testimony from the Department by the end of June.

If you need additional information, please call.

Sincerely,

Don

Donald R. Arkell
Director

DRA/MJD

Attachments

c: Jim Herlihy, EPA--Oregon Operations

LANE REGIONAL

AIR POLLUTION AUTHORITY

(503) 726-2514
225 North 5th, Suite 501, Springfield, OR 97477

Donald R. Arkell, Director

May 24, 1989

Sarah Armitage
Air Quality Division
Dept. of Environmental Quality
811 S. W. Sixth Avenue
Portland, OR 97204

Re: Proposed Amendment, LRAPA Title 13, "Enforcement Procedures"

Dear Sarah:

Attached is information which was presented to the LRAPA board on May 23. The board authorized public hearing at its July 11 meeting. As you will see, these proposed rules closely follow those recently adopted by the EQC. Will you please review them for stringency and compatibility with state rules and comment in writing by the end of June.

At this time, I am also requesting designation as hearings officer for EQC, in order to streamline the rule adoption and approval process.

If you need additional information, please call.

Sincerely,

Donald R. Arkell
Director

DRA/MJD

Attachments

NEIL GOLDSCHMIDT
GOVERNOR

Department of Environmental Quality

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

June 30, 1989

Donald R. Arkell
Director
Lane Regional Air Pollution Authority
225 North 5th, Suite 501
Springfield, OR 97477

Re: Proposed Amendment of LRAPA
Title 13, "Enforcement Procedures"

Dear Mr. Arkell:

The Department has reviewed your proposed enforcement procedure rule amendments for stringency and consistency with state rules. We have found that LRAPA's enforcement rules are at least as stringent as corresponding state regulations. Accordingly, I designate LRAPA as hearings officer for the Environmental Quality Commission in the LRAPA enforcement procedure rule adoption and approval process.

Thank you for the opportunity to comment on your proposed rule amendments.

Sincerely,

Fred Hansen
Director

FH:SA:r
PLAN\AR495

ATTACHMENT F

SUMMARY OF PROPOSED CHANGES IN CONJUNCTION WITH ADOPTION OF NEW TITLE 14

January 8, 1990

	Old	New	Changes
General Dutues and Powers of the Board	12	13	Re-numbering title; re-numbering references to Title 14
Enforcement/Penalties	13	15	Re-numbering title; re-numbering references to Title 14; minor text changes in orders
Definitions	14	12	Re-numbering title; re-numbering references to Title 14
Rules of Practice and Procedures	42 43 44	14 14 14	Rescind Titles 42, 43 and 44 and consolidate elements of those titles into new Title 14, along with portions of Attorney General's Uniform and Model Rules of Procedure and EQC rules of practice and procedure
Indirect Sources	20	20	Minor changes defining the appeal process used
Air Permits	34	34	Minor changes defining the appeal process used; re-numbering references to existing Title 14 (new 12)
NSR	38	38	Minor changes defining the appeal process used; re-numbering references to existing Title 14 (new 12) and new Title 14

NEIL GOLDSCHMIDT
GOVERNOR

Environmental Quality Commission

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

REQUEST FOR EQC ACTION

Meeting Date: May 25,1990
Agenda Item: D
Division: WQ
Section: Construction Grants

SUBJECT:

State Revolving Loan Fund (SRF): Proposed Adoption of Temporary Rules and Authorization for Hearing on Permanent Rules to Address Problems Encountered in Initial Program Implementation and 1989 Legislative Amendments.

PURPOSE:

Obtain Environmental Quality Commission (EQC) approval of temporary rule needed to respond to problems in the existing rule that limit program effectiveness. Authorize a rulemaking hearing prior to adoption of permanent rule.

ACTION REQUESTED:

___ Work Session Discussion
- ___ General Program Background
- ___ Potential Strategy, Policy, or Rules
- ___ Agenda Item ___ for Current Meeting
- ___ Other: (specify)

_x_ Authorize Rulemaking Hearing
_x_ Adopt Rules

Proposed Temporary Rules	Attachment A
Rulemaking Statements	Attachment G
Fiscal and Economic Impact Statement	Attachment G
Public Notice	Attachment H

___ Issue a Contested Case Order
___ Approve a Stipulated Order
___ Enter an Order

Proposed Order	Attachment ___

___ Approve Department Recommendation

___ Variance Request	Attachment ___
___ Exception to Rule	Attachment ___
___ Informational Report	Attachment ___
___ Other:	Attachment ___

DESCRIPTION OF REQUESTED ACTION:

The State Revolving Loan Fund (SRF) program is a program for financing publicly owned water pollution control projects. It was adopted by Congress in 1987 to replace the Construction Grants program which has provided grants for water pollution control projects since 1972. Funding for the program is 83% federal monies and 17% state monies.

In March 1989, DEQ adopted the SRF rules (OAR Chapter 340, Division 54). A year's experience suggests the need for a number of rule changes to make the program more effective as an implementation tool for attaining water quality improvements. Major changes include the following:

--Simplification of the SRF priority system (OAR 340-54-025(2) and (3)). The process is changed from a two-tiered to a one-tiered system. Under the existing system, all known Oregon water quality problems are first ranked in the priority order. Then communities submit preliminary SRF applications which are ranked according to the water quality priority problem they address.

The proposed rule amendments eliminate the step which ranks all Oregon water quality problems. Instead, it only includes a ranking of those projects for which preliminary applications are submitted.

--Amend the priority ranking criteria (OAR 340-54-025(4)). The proposed rule amendments change the criteria used to rank the preliminary applications and the points available in each category.

The existing rules include three ranking criteria; water quality sensitivity points; water quality pollution problem points, and population. The proposed rule amendments change the method used for determining water quality sensitivity points which reflect the effect effluent could have on water. The proposed rule amendments also change the criteria name "water quality pollution problem points" to "enforcement/violation points". The changes are discussed in detail below.

First, the number of points assigned for Enforcement/Violations is reduced from a maximum of 100 to a maximum of 50.

Second, the number of points available in the Water Quality Sensitivity category would increase from a maximum of 50 points to a maximum of 100 points.

Third, the Clean Water Strategy is used to rank surface water bodies instead of the formula applied by the existing rule. The approach to groundwater sensitivity is also changed to be consistent with groundwater statutes in a manner recommended by the Groundwater Section of the Water Quality Division.

--Amend the environmental review process (OAR 340-54-050). Under the proposed rule amendments the responsibility for writing environmental assessments and environmental impact statements shifts from the Department to the applicant. The applicant may pay for preparation of the environmental assessment and environmental impact statement with SRF loan funds.

--Incorporate legislative changes made by the 1989 Oregon Legislature (OAR 340-54-055 (2) and 340-54-060(15)). These amendments eliminate the need for a bond counsel opinion on every SRF loan and allow the Department to waive its right to withhold revenue sharing funds otherwise due to the public agency in the case of agency default.

--Add an "Alternative Loan" category to the three permissible methods of public agency borrowing from the SRF (OAR 340-54-065 (1) and (3)). The original rule allowed public agencies to borrow from the SRF in one of three ways. They could sell the Department a "general obligation bond", a "rated revenue bond", or borrow under specific "revenue secured loan" requirements set out in rule. The proposed rule amendments allow the Department to make loans to public agencies which provide loan security that is different but substantially equivalent to the security required for revenue secured loans.

--Limit small community reserve eligibility (OAR 340-54-070(2)). The proposed rule would limit eligibility for small community reserve funds (15% of the available SRF) to communities that have a minimum of 30 enforcement/violation points (30). The effect would be to eliminate construction (but not facility plan) financing from the small community reserve for communities with potential, but undocumented, water quality problems.

--Change the maximum loan amount (OAR 340-54-075(1)). The proposed rule amendments change the maximum amount that any jurisdiction may receive from 25% to 15% of the available SRF each year.

--Establish a minimum loan amount (OAR 340-54-075(2)). The proposed rule amendments establish a minimum SRF loan amount of $20,000. This reflects the minimum amount the Department estimates would be needed for preparation of a facility plan, which is generally the least expensive project cost.

AUTHORITY/NEED FOR ACTION:

x	Required by Statute: SB 1097 Enactment Date: June 30, 1989	Attachment C
x	Statutory Authority: ORS 468.423 to .440	Attachment B
___	Pursuant to Rule: _____	Attachment ___
___	Pursuant to Federal Law/Rule: _____	Attachment ___
___	Other:	Attachment ___

X Time Constraints: In order for the Department to solicit applications in time to develop an SRF priority list for this year's funding cycle, temporary rules must be adopted in May. They could not have been submitted earlier because of the time required to complete the public involvement process used to develop the proposal.

DEVELOPMENTAL BACKGROUND:

x	Advisory Committee Minutes	Attachment I
___	Hearing Officer's Report/Recommendations	Attachment ___
___	Response to Testimony/Comments	Attachment ___
x	Prior EQC Agenda Items: December 1,1989 - Temporary SRF Rule Amendment Adoption	Attachment F
x	Other Related Reports/Rules/Statutes: ORS 183.335 (5)	Attachment E

_x_ Supplemental Background Information
Supplemental Department report on six statutory factors EQC must consider — Attachment J
Justification for Temporary Rule — Attachment D

REGULATED/AFFECTED COMMUNITY CONSTRAINTS/CONSIDERATIONS:

An SRF task force of 11 representatives from affected communities from around the state was convened to discuss the issues addressed by the proposed rule amendments. The task force recommended approval of the proposed rule amendments.

The proposed rule amendment reducing the annual maximum loan amount will result in a greater number of small loans. This change would ensure that more communities are able to get SRF loans each year. It would also mean that large projects will have less SRF money available to cover project costs.

The proposed rule amendments allow the Department greater flexibility in the type of loan security a borrower may provide. This change would make the SRF accessible to a broader variety of borrowers at no increase in repayment risk.

The proposed rule amendments add a minimal amount of additional cost for SRF borrowers because the responsibility and cost of preparing environmental assessments and environmental impact statements (EIS) is shifted from the Department to the borrower. Borrowers will, however, be able to borrow low interest SRF money to cover the cost of preparing these documents. Also, in cases where an EIS is prepared by the loan applicant, repayment is deferred until a feasible, environmentally sound project can be implemented.

Requiring a minimum of at least 30 enforcement/violation points on the SRF priority list would eliminate small community reserve funding for design and construction projects on the part of small communities which have potential, rather than documented, water quality problems. This change would likely affect few communities.

Neither the Department nor the Task Force find that restrictions are needed at this time with respect to funding for collector sewers (See Attachment J, Number 5).

PROGRAM CONSIDERATIONS:

The Department will save administrative money and staff time by shifting the responsibility for preparing environmental assessments and EISs to the borrower. Due to the federal limit on the amount of administrative funds which can be spent, it is critical to program operation that administrative costs be reduced so that the program can be effectively operated. Further, since the Department is responsible for reviewing these documents, it makes sense to have the communities prepare them.

ALTERNATIVES CONSIDERED BY THE DEPARTMENT:

1. Adopt a temporary rule which incorporates needed program amendments on May 25, 1990 and receive authorization to hold a public hearing before adoption of a final rule on June 29, 1990. This would allow the Department to begin development of the 1990 SRF Priority List in May according to the procedures described in the proposed rule amendments. It would also allow the Department to complete the annual Intended Use Plan required by EPA in time to comply with the 1990 deadline.

2. Receive authorization to hold a public hearing, with no adoption of a temporary rule. The Department would have to wait until final rules were adopted (no sooner than June 29,1990) to begin development of the SRF Priority List and Intended Use Plan. The Intended Use Plan could not be completed until October, 1990 at the earliest. This would be too late for Oregon to receive funding during the 1990 federal fiscal year. This would not result in the loss of $11 million of 1990 funds allotted to Oregon. It would, however, eliminate Oregon from being eligible to receive additional funds from reallotment of SRF funds not spent by other states. It is not known at this time how many SRF reallotment dollars would be available to Oregon. Under the Construction Grant program as much as $400,000 in reallocated funds has been available in past years.

DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:

Adopt Alternative 1 and the findings in Attachment J. This alternative allows the Department to address known problems with the proposed temporary rule amendments while allowing the Department to maintain the option of receiving reallotment dollars in the future.

The Commission is required by statute (ORS 468.440) to consider six factors in establishing loan terms. These factors are discussed in Attachment J.

CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE POLICY:

The proposed rule amendments are consistent with the original intent of the SRF statute to maintain a fair and equitable loan program. The proposed rule amendments are also consistent with the legislative intent of SB 1097 and more closely conform the program with the Department's Clean Water Strategy.

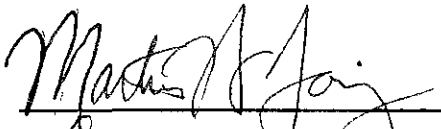
ISSUES FOR COMMISSION TO RESOLVE:

None.

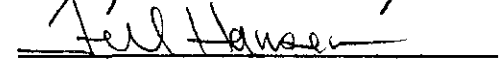
INTENDED FOLLOWUP ACTIONS:

The Department will hold a public hearing in June and return to the EQC for adoption of a final rule on June 29, 1990.

Approved:

Section: 

Division: 

Director: 

Report Prepared By: Maggie Conley

Phone: 229-5257

Date Prepared: April 23, 1990

(MG:crw)
(CG\WC6492)
(April 25, 1990)

NOTE: The underlined portions of text represent proposed additions made to the rules.

The [bracketed] portions of text represent proposed deletions made to the rules.

DIVISION 54

STATE REVOLVING FUND PROGRAM

PURPOSE

340-54-005

These rules are intended to implement (ORS 468.423 - 468.440) under which financial assistance is made available to and utilized by Oregon municipalities to plan, design and construct water pollution control facilities.

DEFINITIONS

340-54-010

(1) "Alternative treatment technology" means any proven wastewater treatment process or technique which provides for the reclaiming and reuse of water, productive recycling of wastewater constituents, other elimination of the discharge of pollutants, or the recovery of energy.

(2) "Available SRF" means the SRF minus monies for SRF administration.

(3) [~~(2)~~] "Categorical exclusion" means an exemption from environmental review requirements for a category of actions which do not individually, cumulatively over time, or in conjunction with other actions, have a significant effect on the quality of the environment. Environmental impact statements, environmental assessments and environmental information documents are not required for categorical exclusions.

(4) [~~(3)~~] "Change order" means a written order and supporting information from the borrower to the contractor authorizing an addition, deletion, or revision in the work within the scope of the contract documents, including any required adjustment in contract price or time.

(5) [~~(4)~~] "Clean Water Act" means the Federal Water Pollution Control Act, as amended, 33 USC 1251 et. seq.

(6) [~~(5)~~] "Collector sewer" means the portion of the public sewerage system which is primarily installed to receive wastewater directly from individual residences and other individual public or private structures.

(7) [~~(6)~~] "Combined sewer" means a sewer that is designed as both a sanitary and a stormwater sewer.

(8) [~~(7)~~] "Construction" means the erection, installation, expansion or improvement of a water pollution control facility.

(9) [~~(8)~~] "Default" means nonpayment of SRF repayment when due, failure to comply with SRF loan covenants, a formal bankruptcy filing, or other written admission of inability to pay its SRF obligations.

(10) [~~(9)~~] "Department" means the Oregon Department of Environmental Quality.

(11) [~~(10)~~] "Director" means the Director of the Oregon Department of Environmental Quality.

(12) [~~(11)~~] "Documented health hazard" means areawide failure of on-site sewage disposal systems or other sewage disposal practices resulting in discharge of inadequately treated wastes to the environment demonstrated by sanitary surveys or other data collection methods and confirmed by the Department and Health Division as posing a risk to public health. This includes a mandatory health hazard annexation required pursuant to ORS 222.850 to 222.915 or ORS 431.705 to 431.760.

(13) [~~(12)~~] "Documented water quality problem" means water pollution resulting in violations of water quality statutes, rules or permit conditions demonstrated by data and confirmed by the Department as causing a water quality problem.

(14) [~~(13)~~] "Environmental assessment" means an evaluation prepared by the applicant [~~Department~~] to determine whether a proposed project may have a significant impact on the environment and, therefore, require the preparation of an environmental impact statement (EIS) or a Finding of No Significant Impact (FNSI). The assessment shall include a brief discussion of the need for a project [~~proposal~~], the alternatives, the environmental impacts of the proposed action and alternatives and a listing of persons or agencies consulted.

(15) [~~(14)~~] "Environmental impact statement (EIS)" means a report required [~~prepared~~] by the Department analyzing the impacts of the proposed project and discussing project alternatives. An EIS is prepared when the environmental assessment indicates that a significant environmental impact may occur and significant adverse impacts can not be eliminated by making changes in the project.

[~~(15) "Environmental information document" means a written analysis prepared by the applicant describing the environmental impacts of the proposed project. This document is of sufficient scope to enable the Department to prepare an environmental assessment.~~]

(16) "EPA" means the U.S. Environmental Protection Agency.

(17) "Estuary management" means development and implementation of a plan for the management of an estuary of national significance as described in §320 of the Clean Water Act.

(18) "Excessive infiltration/inflow" means the quantities of infiltration/inflow which can be economically eliminated from a sewer system as determined in a cost effective analysis that compares the costs for correcting the infiltration/inflow conditions to the total costs for transportation and treatment of the infiltration/inflow from sanitary sewers.

(19) "Facility plan" means a systematic evaluation of environmental factors and engineering alternatives considering demographic, topographic, hydrologic, and institutional characteristics of a project area that demonstrates that the selected alternative is cost effective and environmentally acceptable.

(20) "Federal capitalization grant" means federal dollars allocated to the State of Oregon for a federal fiscal year from funds appropriated by Congress for the State Revolving Fund under Title VI of the Clean Water Act. This does not include state matching monies.

(21) "Groundwater management area" means an area in which contaminants in the groundwater have exceeded the levels established under ORS 468.694, and the affected area is subject to a declaration under ORS 468.698.

(22) [~~(21)~~] "Infiltration" means the intrusion of groundwater into a sewer system through defective pipes, pipe joints, connections, or manholes in the sanitary sewer system.

(23) [~~(22)~~] "Inflow" means a direct flow of water other than wastewater that enters a sewer system from sources such as, but not limited to, roof gutters, drains, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, stormwaters, surface runoff, or street wash waters.

(24) [~~(23)~~] "Initiation of operation" means the date on which the facility is substantially complete and ready for the purposes for which it was planned, designed, and built.

(25) [~~(24)~~] "Innovative technology" means developed wastewater treatment processes and techniques which have not been fully proven under the circumstances of their contemplated use and which represent a significant advancement over the state-of-the-art in terms of significant reduction in life cycle cost of the project or environmental benefits when compared to an appropriate conventional technology.

(26) [~~(25)~~] "Intended Use Plan" means a report which must be submitted annually by the Department to EPA identifying proposed uses of the SRF including, but not limited to a list of public agencies ready to enter into a loan agreement for SRF funding within one year and a schedule of grant payments.

(27) [~~(26)~~] "Interceptor sewer" means a sewer which is primarily intended to receive wastewater from a collector sewer, another interceptor sewer, an existing major discharge of raw or inadequately treated wastewater, or a water pollution control facility.

(28) "Interim loan" means funds borrowed for the construction/ project period or three years, whichever is less. At the discretion of the Department, a longer period loan may be considered an interim loan under extraordinary circumstances.

(29) [~~(27)~~] "Highly controversial" means public opposition based on a substantial dispute over the environmental impacts of the project. The disputed impacts must bear a close causal relationship to the proposed project.

(30) "Long-term loan" means any loan not considered an interim loan.

(31) [~~(28)~~] "Maintenance" means work performed to make repairs, make minor replacements or prevent or correct failure or malfunctioning of the water pollution control facility in order to preserve the functional integrity and efficiency of the facility, equipment and structures.

(32) [~~(29)~~] "Major sewer replacement and rehabilitation" means the repair and/or replacement of interceptor or collector sewers, including replacement of limited segments.

(33) [~~(30)~~] "Nonpoint source control" means implementation of a plan for managing nonpoint source pollution as described in §319 of the Clean Water Act.

(34) [~~(31)~~] "Operation" means control of the unit processes and equipment which make up the treatment system and process, including financial and personnel management, records, laboratory control, process control, safety, and emergency operation planning.

(35) [~~(32)~~] "Operation and maintenance manual" means a guide used by an operator for operation and maintenance of the water pollution control facility.

(36) [~~(33)~~] "Project" means facility planning, design and construction, or construction activities or tasks identified in the loan agreement for which the borrower may expend, obligate, or commit funds to address a water pollution problem or a documented health hazard.

(37) [~~(34)~~] "Public agency" means any state agency, incorporated city, county sanitary authority, county service district, sanitary sewer service district, metropolitan service district, or other district authorized or required to construct water pollution control facilities.

(38) [~~(35)~~] "Replacement" means expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the design or useful life, whichever is longer, of the water pollution control facility to maintain the facility for the purpose for which it was designed and constructed.

(39) [~~(36)~~] "Reserve capacity" means that portion of the water pollution control facility that is designed and incorporated in the constructed facilities to handle future sewage flows and loadings from existing or future development consistent with local comprehensive land use plans acknowledged by the Land Conservation and Development Commission.

(40) "Self-generated funds" means public agency monies which come from revenue. This does not include proceeds of bond sales.

(41) [~~(37)~~] "Sewage collection system" means pipelines or conduits, pumping stations, force mains, and any other related structures, devices, or applications used to convey wastewater to a sewage treatment facility.

(42) [~~(38)~~] "Sewage treatment facility" means any device, structure, or equipment used to treat, neutralize, stabilize, or dispose of wastewater and residuals.

(43) [~~(40)~~] "Significant industrial dischargers" means water pollution control facility users as defined in the Department's Pretreatment Guidance Handbook.

(44) [~~(41)~~] "Small community" means a public agency [~~city, sanitary authority or service district~~] with a population of [~~less than~~] 5,000 or less.

(45) [~~(39)~~] "SRF" means State Revolving Fund and includes funds from state match, federal capitalization grants, SRF loan repayments, interest earnings, or any additional funds provided by the state. [~~The State Revolving Fund is the same as the Water Pollution Control Revolving Fund referred to in ORS 468.423 -- 468.440.~~]

(46) "Surface water" means streams, lakes, reservoirs, and estuaries.

(47) [~~(42)~~] "Wastewater" means water carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.

(48) [~~(43)~~] "Water pollution control facility" means a sewage disposal, treatment and/or collection system.

(49) "Wellhead protection area" means a state designated surface and subsurface area surrounding a well or wellfield that supplies a public water system through which contaminants are likely to pass and eventually reach the well or wellfield.

(50) [~~(44)~~] "Value engineering" means a specialized cost control technique which uses a systematic approach to identify cost savings which may be made without sacrificing the reliability or efficiency of the project.

PROJECT ELIGIBILITY

340-54-015

(1) A public agency may apply for a loan for up to 100% of the cost of the following types of projects and project related costs (including financing costs, capitalized interest, and ~~[,-to-the-extent-permitted by-the-Clean-Water-Act,]~~ loan reserves):

(a) Facility plans, including supplements, are limited to one complete facility plan financed by the SRF per project;

(b) Secondary treatment facilities;

(c) Advanced waste treatment facilities if required to comply with Department water quality statutes and rules;

(d) Reserve capacity for a sewage treatment or disposal facility receiving SRF funding which will serve a population not to exceed a twenty-year population projection and for a sewage collection system or any portion thereof not to exceed a fifty-year population projection;

(e) Sludge disposal and management;

(f) Interceptors and associated force mains and pumping stations;

(g) Infiltration/inflow correction;

(h) Major sewer replacement and rehabilitation if components are a part of an approved infiltration/inflow correction project;

(i) Combined sewer overflow correction if required to protect sensitive estuarine waters, if required to comply with Department water quality statutes and rules, or if required by Department permit, and if the project is the cost effective alternative for the next 20 years;

(j) Collector sewers if required to alleviate documented water quality problems~~[,]~~ or to serve an area with a documented health hazard~~[,-or-to-serve-an-area-where-a-mandatory-health-hazard annexation-is-required-pursuant-to-ORS-222.850-to-222.915-or ORS-431.705-to-431.760]~~;

(k) Stormwater control if project is a cost effective solution for infiltration/inflow correction to sanitary sewer lines;

(l) Estuary management if needed to protect sensitive estuarine waters and if the project is publicly owned; and

(m) Nonpoint source control if required to comply with Department water quality statutes and rules and if the project is publicly owned.

(2) Funding for projects listed under (1) above may be limited by Section 201(g)(1) of the Clean Water Act.

(3) Loans will not be made to cover the non-federal matching share of an EPA grant.

(4) Plans funded in whole or in part from the SRF must be consistent with plans developed under Sections 208, 303(e), 319, and 320 of the Clean Water Act.

(5) Loans shall be available only for projects on the SRF Priority List, described in OAR 340-54-025.

(6) A project may be phased if the total project cost is in excess of that established in OAR 340-54-075(1).

(7) SRF loans will not be available to refinance long-term loans. SRF loans will, however, be available to communities which have paid project costs with an interim loan or self-generated funds and want to provide long-term financing of these costs with an SRF loan and comply with the following conditions:

(a) Prior to project commencement, the public agency must provide notice of their intent to proceed with a project which is financed with interim loans or self-generated funds.

(b) The public agency must agree to proceed at its own risk without regard to whether SRF financing will ultimately be available to provide the long-term financing, and

(c) The public agency agrees to comply with project review and approval requirements established in OAR Chapter 340, Division 52, DEQ permit requirements as established in OAR Chapter 340, Division 45, and requirements of Title VI of the Clean Water Act.

USES OF THE FUND

340-54-020

The SRF may only be used for the following project purposes:

(1) To make loans, fund reserves, purchase bonds, or acquire other debt obligations;

(2) To pay SRF program administration costs (not to exceed 4% of the federal capitalization grant or as otherwise allowed by federal law);

(3) To earn interest on fund accounts.

SRF PRIORITY LIST AND INTENDED USE PLAN

340-54-025

(1) General. The Department will develop an annual {statewide} Intended Use Plan which includes a SRF {p}Priority {l}List {which} numerically rank{s}ing eligible preliminary SRF applications submitted by public agencies. {water-quality-pollution-problems-which-could-be-financed through-the-State-Revolving-Fund.} Only projects on the SRF Priority List will be eligible for SRF financing. This list will be part of the Intended Use Plan which the Department prepares and submits to EPA annually indicating how SRF funds will be spent.

(2) {Eligibility.--Projects-necessary-to-correct-water-quality-problems listed-on-the-SRF-priority-list-must-be-eligible-under-OAR-340-54-015(1).} SRF Priority List Development.

(a) The Department will notify interested parties of the opportunity to submit a preliminary SRF application. Interested parties include but are not limited to public agencies on the SRF mailing list.

(b) In order for a project to be considered for inclusion on the SRF Priority List, the Department must receive a completed preliminary SRF application for a project which corrects a documented water quality problem or a documented health hazard. The project must also be eligible under OAR 340-54-015(1).

(3) Draft SRF Priority List and Intended Use Plan Public Notice and Review.

(a) The Department will publish a public notice and distribute the proposed SRF Priority List and Intended Use Plan to all public agencies that submitted preliminary applications.

(b) The Department will allow at least thirty (30) days after issuing of the draft SRF Priority List for review and for public comments to be submitted.

(A) During the comment period, any pubic agency may request the Department to reevaluate a project's rank on the proposed SRF Priority List or to make other changes to the Intended Use Plan.

(B) The Department shall consider all requests submitted during the comment period before establishing the Final SRF Priority List and Intended Use Plan.

(C) The Department will distribute the Final SRF Priority List and Intended Use Plan to all public agencies with projects on the Final SRF Priority List.

(4) [~~(3)~~] SRF Priority List Ranking Criteria. The numerical ranking of water quality pollution problems will be based on points assigned from the following three (3) criteria:

(a) [~~Water Quality Pollution Problem~~] Enforcement/Water Quality Violation Points.

(A) 50 [~~100~~] points will be assigned for:

(i) Environmental Quality Commission orders pertaining to water quality problems;

(ii) Stipulated consent orders and agreements pertaining to water quality problems;

(iii) Court orders pertaining to water quality problems; [~~or~~]

(iv) Department orders pertaining to water quality problems[~~,~~];

(v) EQC rules requiring elimination of an existing water quality problem related to inadequate water pollution control facilities;

(vi) [~~(B) 90 points will be assigned for d~~]Documented health hazards [~~and mandatory health hazard annexation areas required pursuant to ORS 222.850 to 222.915 or ORS 431.705 to 431.760~~] with associated [~~demonstrated~~] documented water quality problems [or beneficial use impairments.]; or

(vii) [(G) 80 points will be assigned for] [s]Streams or stream segments where the Environmental Quality Commission has established Total Maximum Daily Loads.

[(D) 70 points will be assigned for documented water quality problems or beneficial use impairments;]

(B) [(E)] 40 [60] points will be assigned for[:]

[(i) Notices issued by the Department for permit violations related to inadequate water pollution control facilities (Notice of Violation); or]

[(ii)] [N]non-compliance with the Department's statutes, rules or permit requirements resulting from inadequate water pollution control facilities.

(C) [(F)] 30 [40] points will be assigned for documented health hazards [or mandatory health hazard annexation areas required pursuant to ORS 222.850 to 222.915 or ORS 431.705 to 431.760] without documented water quality problems.

(D) [(G)] 10 [20] points will be assigned for existing potential, but undocumented, water quality problems noted by the Department.

(b) Population Points.

(A) Points shall be assigned based on the current population the project will serve as follows:

$$\text{Points} = (\text{population})[\text{served}]^{2 \log 10}$$

(c) Receiving Waterbody Sensitivity Points.

(A) Surface Water. [A maximum of 50 points shall be assigned for the sensitivity of the water body as follows:]

[(i) Stream sensitivity will be based on the following:

--(I) The following formula will be used to determine stream sensitivity where an existing water pollution control facility discharges into a stream:

Points = (Ge * Qe / Qe + Qs)$^{2.5}$ where:

- Ge = Concentration of effluent as represented by BOD_5 (Bio Chemical analysis)

- Qe = Quantity of permitted effluent flow from treatment facility (mgd) or current low flow average if higher than permit limits

- Qs = Quantity of minimum receiving stream flow (mgd) from statistical summaries of stream flow data in Oregon (7 day/10 year average low flow) or from Department measurements

(II) 50 points will be assigned to any water quality problem where the Department determines surface waters other than a lake is are being contaminated by areawide on site system failures or documented nonpoint source pollution problems.

(III) 25 points will be assigned to any potential surface water quality problem, resulting from effluent from on site systems or from non-point sources.

(ii) Groundwater sensitivity points will be assigned based on the following:

(I) 50 points will be assigned to any Department documented groundwater quality pollution problem.

(II) 25 points will be assigned to any potential groundwater quality pollution problem as noted by the Department.

(iii) Lake and Reservoir sensitivity points. 50 points will be assigned any discharge to a lake or reservoir.

(iv) Estuary sensitivity points. 50 points will be assigned any discharge to an estuary.

(v) Ocean sensitivity. 25 points will be assigned for a discharge to the ocean.}

(i) If a discharge is to surface water, water quality points will be assigned based on total water quality points from Oregon's Clean Water Strategy statewide ranking report.

(ii) If a discharge is to a stream segment not listed in the report, then the points assigned to the next downstream segment will be assigned to that discharge.

(iii) If discharge is to the ocean, 10 points will be assigned.

(iv) If discharge is to any other surface waterbody not referenced above one point will be assigned.

(B) Groundwater.

(i) 90 points will be assigned to discharges to an EPA designated sole source aquifer;

(ii) 70 points will be assigned to:

(I) Discharges to groundwater where the discharge has been documented to have increased the concentration of a contaminant above both the groundwater background level and an adopted state standard for groundwater quality; or

(II) A wellhead protection area.

(iii) 50 points will be assigned to:

(I) Discharges to groundwater where the discharge has been demonstrated to have increased the concentration of a contaminant above the groundwater background level but the contamination level is below an adopted state standard for groundwater quality; or

(II) The groundwater is within a designated groundwater management area; or

(iv) 30 points will be assigned to discharges to groundwater where the discharge is suspected of causing a groundwater contamination problem but there is not direct evidence to substantiate the problem.

(v) 10 points will be assigned to suspected discharges to groundwater where a discharge could cause a contamination problem.

(5) [~~(4)~~] SRF Point Tabulation Method. Point scores will be accumulated as follows:

(a) Points will be assigned based on the most significant documented water quality pollution problem within each point category.

(b) The score used in ranking a water quality problem will consist of the sum of the points received in each of the [~~three~~ (3)] point categories.

(6) Priority List Categories.

(a) The SRF Priority List will consist of three parts, the Fundable Category, the Planning Category, and the Supplementary Category. The Fundable Category will include projects which are ready to receive funding and for which there are available SRF funds. The Planning Category includes projects which are ready to receive funding but for which SRF funds are not currently available. The Supplementary Category consists of prior years' fundable category lists which include projects for which loan agreements are not completed.

(b) The Fundable Category will be prepared in the following manner:

(A) Loan increases: First, loan increases will be awarded to the extent necessary and permitted by this rule and the SRF loan agreement.

(B) Small Community Reserve:

(i) Next, small community projects are selected from the SRF Priority List in rank order not to exceed 15 percent of the available SRF funds.

(ii) Communities receiving small community reserve funding for facility planning will count toward filling both the small community reserve and the facility planning reserve.

(C) Facility Planning Reserve:

(i) After funds are awarded for loan increases, and after 15 percent of the available SRF funds are awarded to small communities or after all small community loan requests are funded (whichever occurs first) facility planning projects are selected from the SRF Priority List in rank order, not to exceed 10 percent of the available SRF funds.

(ii) Small communities will continue to be eligible for the facility planning reserve if their project is next in rank order.

(D) General Fund: The remaining projects, including facility planning and small community projects, will be awarded loans in rank order to the extent of available SRF funds.

(c) The Planning Category will be prepared in the following manner:

(A) After all available funds are allocated to projects in the Fundable Category, any remaining projects will be arranged in rank order of priority and comprise the Planning Category of the Priority List.

(B) This Planning Category will be maintained until the next year's priority list is prepared. It is the source from which to obtain additional projects for the current year's Fundable Category should projects be removed pursuant to OAR 340-54-025(7).

(d) The Supplementary Category will be prepared in the following manner:

(A) The Supplementary Category consists of projects from the Fundable Category of prior years' SRF Priority Lists.

(B) After the first year a project is listed in the Fundable Category, it will be moved to the Supplementary Category until a loan agreement for the project is completed.

(B) Projects in the Supplementary Category will not be ranked with projects in the current year's Fundable and Planning Categories discussed in subsection (5)(b) and (c) of this section, except to the extent necessary to provide loan increases to projects in the Supplementary Category.

(C) Funding for projects on the Supplementary list is limited to the loan amount in the SRF loan agreement plus DEQ approved loan increases.

(7) Priority List Modification.

(a) The Department may remove a project from the SRF Priority List if the Department determines that the project is not ready to proceed according to the schedule in the preliminary application or if the applicant requests removal.

(b) When the Department removes a project which is not ready to proceed, it will give written notice to the applicant whose project is proposed for removal and allow the applicant thirty (30) days after the notice to demonstrate to the Department its readiness and ability to immediately complete a SRF loan agreement or to withdraw the applicant's request to be removed from the priority list.

(c) When a project is removed from the Priority List, the Department will:

(A) First, allocate funds to loan amendments for projects with approved SRF loans; and

(B) Second, move projects from the Priority List Planning Category in rank order to the Fundable Category to the extent that there are adequate SRF funds available.

(d) The Department may add projects to the SRF Priority List only if there is an inadequate number of projects in the Fundable Category and Planning Category ready to receive funding. To add projects to the Priority List, the Department will follow the process outlined in 340-54-025(2).

~~[(6) Public Notice and Review:~~

~~(a) The Department will publish a public notice and distribute the proposed SRF priority list to all interested parties for review. Interested parties include, but are not limited to, the following:~~

~~(A) Public agencies with water quality pollution problems on the list;~~

~~(B) Interested local, state and federal agencies;~~

~~(C) Any other persons or public agencies who have requested to be on the mailing list.~~

~~(b) The Department will allow 30 days after issuance of the public notice and proposed list for review and for public comments to be submitted.~~

~~(A) During the comment period, any public agency can request the Department to include a problem not identified on the proposed list or reevaluate a problem on the proposed priority list.~~

~~(B) The Department shall consider all requests submitted during the comment period before establishing the official statewide priority list.~~

(c) The Department shall distribute the official priority list to all interested parties.

(d) If an interested party does not agree with the Department's determination on a priority list the interested party may within 15 days of mailing of the official list file an appeal to present their case to the Director. The appeal will be informal and will not be subject to contested case hearing procedures.

(7) Priority List Modification.

(a) The Department may modify the official priority list by adding, removing or reranking projects if notice of the proposed action is provided to all lower priority projects.

(b) Any interested party may, within 15 days of mailing of the notice, request a review by the Department.

(c) The Department shall consider all requests submitted during the comment period before establishing the modified statewide priority list.

(d) The Department will distribute the modified priority list to all interested parties.

(e) If an interested party does not agree with the Department's determination on the modified priority list, the party may within 15 days of the mailing of the modified priority list, file an appeal to present their case to the Director. The appeal will be informal and will not be subject to contested case hearing procedures.

PRELIMINARY APPLICATION PROCESS AND PREPARATION OF THE INTENDED USE PROJECT LIST]

[340-54-030

(1) General.

(a) Each year the Department will prepare and submit an Intended Use Plan to EPA which includes a list of projects for which public agencies have demonstrated the ability to enter into a loan agreement within one year.

(b) No project may be included in the Intended Use Plan Project List unless it will address a problem listed in the SRF Priority List.

(c) The Intended Use Plan Project List will consist of two parts; the Fundable List and the Planning List. The Fundable List includes projects which are ready to receive funding and for which adequate SRF funds are anticipated to be available during the funding year. The Planning List includes projects which are ready to receive funding but for which inadequate funds are anticipated to be available during the funding year.

(2) Development of the Intended Use Plan Project List.

(a) In order to develop the Intended Use Plan Project List, the Department will contact, by certified mail, the public agencies with problems listed in the priority list and ask them to submit a preliminary application for SRF funding.

(b) In order for a project to be considered for inclusion in the Intended Use Plan Project List, the Department must receive a completed preliminary SRF application by certified mail within 30 days of the date the Department mails the preliminary application form.

(c) The preliminary SRF application will include, but not be limited to:

(A) A description of the proposed project;

(B) The proposed project costs and SRF loan amount;

(C) The type of SRF loan which will be requested;

(D) The date when the public agency anticipates filing a final SRF application; and

(E) The date when the public agency anticipates beginning the project.

(d) The Department will review and approve for inclusion in the Intended Use Plan Project List all preliminary applications which demonstrate the ability of the public agency to enter into a loan agreement within one year. Approved projects will be listed in rank order as established in the priority list.

(e) If a public agency does not submit a timely preliminary application, its project(s) shall not be considered for inclusion in the Intended Use Plan Project List and will lose its opportunity for SRF financing in that year, unless the Department determines otherwise.

(f) After completion of the proposed Intended Use Plan Project List, the Department will send a copy to all public agencies with projects listed on the priority list.

~~(g) Any interested party may within 15 days of mailing of the notice request a review by the Department.~~

~~(h) The Department shall consider all requests submitted during the comment period before establishing the Intended Use Plan Project List.~~

~~(i) If an interested party does not agree with the Department's determination on the Intended Use Plan Project List, the interested party may within 15 days of the distribution of the Intended Use Plan Project List file an appeal to present their case to the Director. The appeal will be informal and will not be subjected to contested case hearing procedures.~~

~~(3) Intended Use Plan Modification.~~

~~(a) The Department may remove a project from the Fundable List in the Intended Use Plan project list if the Department determines that a public agency which has a project listed in the Fundable List will not be ready to enter into a loan agreement as required under OAR 340-54-030(2)(d).~~

~~(b) When the Department removes a project, it will give written notice to the applicant whose project is proposed for deletion and allow the applicant 30 days after notice to demonstrate to the Department its readiness and ability to immediately complete a loan agreement.~~

~~(c) When a project is removed from the Fundable List in the Intended Use Plan, projects from the Planning List of the Intended Use Plan will be moved in rank order to the Fundable List to the extent that there are adequate SRF funds available.~~

FINAL APPLICATION PROCESS FOR SRF FINANCING FOR FACILITY PLANNING FOR WATER POLLUTION CONTROL FACILITIES, NONPOINT SOURCE CONTROL PROJECTS, ESTUARY MANAGEMENT PROJECTS AND STORMWATER CONTROL PROJECTS

340-54-035

Applicant(s) for SRF loans for nonpoint source control projects, estuary management projects, stormwater control projects, and facility planning for water pollution control facilities must submit:

(1) A final application on forms provided by the Department;

(2) Evidence that the public agency has authorized development of nonpoint source control project, estuary management project, stormwater control projects or water pollution control facility plan;

(3) A demonstration that applicant complies with the requirements of OAR 340-54-055(2) and 340-54-065(1); and

(4) Any other information requested by the Department.

FINAL APPLICATION PROCESS FOR SRF FINANCING FOR DESIGN AND CONSTRUCTION OF WATER POLLUTION CONTROL FACILITIES

340-54-040

Applicants for SRF loans for design and construction of water pollution control facilities must submit:

(1) A final SRF loan application on forms provided by the Department (See also Section 340-54-055(2), Loan Approval and Review Criteria).

(2) A facilities plan which includes the following:

(a) A demonstration that the project will apply best practicable waste treatment technology as defined in 40 CFR 35.2005(b)(7).

(b) A cost effective analysis of the alternatives available to comply with applicable Department water quality statutes and rules over the design life of the facility and a demonstration that the selected alternative is the most cost effective.

(c) A demonstration that excessive inflow and infiltration (I/I) in the sewer system does not exist or if it does exist, how it will be eliminated.

(d) An analysis of alternative and innovative technologies. This must include:

(A) An evaluation of alternative methods for reuse or ultimate disposal of treated wastewater and sludge material resulting from the treatment process;

(B) An evaluation of improved effluent quality attainable by upgrading the operation and maintenance and efficiency of existing facilities as an alternative or supplement to building new facilities;

(C) A consideration of systems with revenue generating applications; [and]

(D) An evaluation of the opportunity to reduce the use of energy or to recover energy[.]; and

(E) An evaluation of the opportunities to reduce the amount of wastewater by water use conservation measures and programs.

(e) An analysis of the potential open space and recreational opportunities associated with the project.

(f) An evaluation of the environmental impacts of alternatives as discussed in OAR 340-54-050.

(g) Documentation of the existing water quality problems which the facility plan must correct.

(h) Documentation and analysis of public comments and of testimony received at a public hearing held before completion of the facility plan.

(3) Adopted sewer use ordinance(s).

(a) Sewer use ordinances adopted by all municipalities and service districts discharging effluent to the water pollution control facility must be included with the application.

(b) The sewer use ordinance(s) shall prohibit any new connections from inflow sources into the water pollution control facility, without the approval of the Department.

(c) The ordinance(s) shall require that all wastewater introduced into the treatment works not contain toxics or other pollutants in amounts or concentrations that have the potential of endangering public safety and adversely affecting the treatment works or precluding the selection of the most cost-effective alternative for wastewater treatment sludge disposal.

(4) Documentation of pretreatment surveys and commitments:

(a) A survey of nonresidential users must be conducted and submitted to the Department, as part of the final SRF application which identifies significant industrial discharges as defined in the Department's Pretreatment Guidance Handbook. If the Department determines that the need for a pretreatment program exists, the borrower must develop and adopt a program approved by the Department before initiation of operation of the facility.

(b) The borrower must document to the satisfaction of the Department that necessary pretreatment facilities have been constructed and that a legally binding commitment or permit exists with the borrower and any significant industrial discharger(s), being served by the borrower's proposed sewage treatment facilities. The legally binding commitment or permit must [~~insure~~] ensure that pretreatment discharge limits will be achieved on or before the date of completion of the proposed wastewater treatment facilities or that a Department approved compliance schedule is established.

(5) Adoption of a user charge system.

(a) General. The borrower must develop and obtain the Department's approval of its user charge system. If the borrower has a user charge system in effect, the borrower shall demonstrate that it meets the provisions of this section or amend it as required by these provisions.

(b) Scope of the user charge system.

(A) The user charge system must, at a minimum, be designed to produce adequate revenues to provide for operation and maintenance (including replacement expenses);

(B) Unless SRF debt retirement is reduced by other dedicated sources of revenue discussed in OAR 340-54-065, the user charge system must be designed to produce adequate revenues to provide for SRF debt retirement.

(c) Actual use. A user charge system shall be based on actual use, or estimated use, of sewage treatment and collection services. Each user or user class must pay its proportionate share of the costs incurred in the borrower's service area.

(d) Notification. Each user charge system must provide that each user be notified, at least annually, in conjunction with a regular bill or other means acceptable to the Department, of the rate and that portion of the user charge that is attributable to wastewater treatment services.

(e) Financial management. Each borrower must demonstrate compliance with state and federal audit requirements. If the borrower is not subject to state or federal audit requirements, the borrower must provide a report reviewing the account system prepared by a municipal auditor. A systematic method must be provided to resolve material audit findings and recommendations.

(f) Adoption of system. The user charge system must be legislatively enacted before loan approval and implemented before initiation of operation of the facility. If the project will serve two or more municipalities, the borrower shall submit the executed intermunicipal agreements, contracts or other legally binding instruments necessary for the financing, building and operation of the proposed treatment works.

(6) A financial capability assessment for the proposed project which demonstrates the applicant's ability to repay the loan and to provide for operation and maintenance costs (including replacement) for the wastewater treatment facility.

(7) Land use compatibility statement from the appropriate local government(s) demonstrating compliance with the LCDC acknowledged comprehensive land use plan(s) and statewide land use planning goals.

(8) Any other information requested by the Department.

FINAL APPLICATION PROCESS FOR SRF FINANCING FOR CONSTRUCTION OF WATER POLLUTION CONTROL FACILITIES

340-54-045

Applicants for SRF loans for construction of water pollution control facilities must:

(1) Comply with the application requirements in OAR 340-54-040 for design and construction of water pollution control projects;

(2) Submit Department approved plans and specifications for the project; and

(3) Submit a value engineering study, satisfactory to the Department, if the total project cost will exceed $10 million.

ENVIRONMENTAL REVIEW

340-54-050

(1) General. An environmental review is required prior to approval of a loan for design and construction or construction when:

(a) No environmental review has previously been prepared;

(b) A significant change has occurred in project scope and possible environmental impact since a prior environmental review; or

(c) A prior environmental review determination is more than five years old.

(2) Environmental Review Determinations. The Department will notify the applicant during facility planning of the type of environmental documentation which will be required. Based upon the Department's determination:

(a) The applicant may apply for a categorical exclusion; or

(b) The applicant will prepare an environmental <u>assessment</u> ~~[information document]~~ in a format specified by the Department. ~~[and the Department will]~~ After the Department has reviewed and approved the environmental assessment, it will:

(A) Prepare {an environmental assessment and} a Finding of No Significant Impact; or

(B) Issue a Notice of Intent to Prepare an Environmental Impact Statement; require the applicant to prepare an environmental impact statement; and prepare a record of decision.

(3) Categorical Exclusions. The categorical exclusions may be made by the Department for projects that have been demonstrated to not have significant impacts on the quality of the human environment.

(a) Eligibility.

(A) If an applicant requests a categorical exclusion, the Department shall review the request and based upon project documentation submitted by the applicant, the Department shall:

(i) Notify the applicant of categorical exclusion and publish notice of categorical exclusion in a newspaper of state-wide and community-wide circulation;

(ii) Notify the applicant to prepare an environmental assessment {information document}, or

(iii) Require the applicant to {I}issue a Notice of Intent to Prepare an Environmental Impact Statement.

(B) A project is eligible for a categorical exclusion if it meets the following criteria:

(i) The project is directed solely toward minor rehabilitation of existing facilities, toward replacement of equipment, or toward the construction of related facilities that do not affect the degree of treatment or the capacity of the facility. Examples include infiltration and inflow correction, replacement of existing equipment and structures, and the construction of small structures on existing sites; or

(ii) The project will serve less than 10,000 people and is for minor expansions or upgrading of existing water pollution control facilities.

(C) Categorical exclusions will not be granted for projects that entail any of the following activities:

(i) The construction of new collection lines;

(ii) A new discharge or relocation of an existing discharge;

(iii) A substantial increase in the volume or loading of pollutants;

(iv) Providing capacity for a population 30 percent or greater than the existing population;

(v) Known or expected impacts to cultural resources, historical and archaeological resources, threatened or endangered species, or environmentally sensitive areas; or

(vi) The construction of facilities that are known or expected to not be cost-effective or to be highly controversial.

(b) Documentation. Applicants seeking a categorical exclusion must provide the following documentation to the Department:

(A) A brief, complete description of the proposed project and its costs;

(B) A statement indicating the project is cost-effective and that the applicant is financially capable of constructing, operating, and maintaining the facilities; and

(C) Plan map(s) of the proposed project showing:

(i) Location of all construction areas;

(ii) Planning area boundaries; and

(iii) Any known environmentally sensitive areas.

(D) Evidence that all affected governmental agencies have been contacted and their concerns addressed.

(c) Proceeding with Financial Assistance. Once the issued categorical exclusion becomes effective, financial assistance may be awarded; however, if the Department later determines the project or environmental conditions have changed significantly, further environmental review may be required and the categorical exclusion will be revoked.

(4) Environmental Assessment ~~[Information Document]~~.

(a) General. If a project is not eligible for a categorical exclusion, the applicant must prepare an environmental assessment ~~[information document]~~.

(b) An environmental assessment ~~[information document]~~ must include:

(A) A description of the proposed project and why it is needed;

(B) The potential environmental impacts of the project as proposed;

(C) The alternatives to the project and their potential environmental impacts;

(D) A description of public participation activities conducted and issues raised; and

(E) Documentation of coordination with affected federal and state government agencies and tribal agencies.

(c) The Department will review and approve or reject the environmental assessment. If the environmental assessment is rejected, the applicant must make any revisions required by the Department. If the environmental assessment is approved, the Department will: ~~[If an environmental information document is required, the Department shall prepare an environmental assessment based upon the applicant's environmental information document and:]~~

(A) Issue a Finding of No Significant Impact documenting any mitigative measures required of the applicant. The Finding of No Significant Impact will include a brief description of the proposed project, its costs, any mitigative measures required of the applicant as a condition of its receipt of financial assistance, and a statement to the effect that comments supporting or disagreeing with the Finding of No Significant Impact may be submitted for consideration by the board; or

(B) Require the applicant to i~~[I]~~ssue a Notice of Intent to Prepare an Environmental Impact Statement.

(d) If the Department issues a Finding of No Significant Impact:

(A) The Department will distribute the Finding of No Significant Impact to those parties, governmental entities, and agencies that may have an interest in the proposed project. No action regarding the provision of financial assistance will be taken by the Department for at least 30 days after the issuance of the Finding of No Significant Impact;

(B) The Department will reassess the project to determine whether the environmental assessment will be supplemented or whether an environmental impact statement will be required if substantive comments are received during the public comment period that challenge the Finding of No Significant Impact; and

(C) The Finding of No Significant Impact will become effective if no new information is received during the public comment period which would require a reassessment or if after reviewing public comments and reassessing the project, an environmental impact statement was not found to be necessary.

(e) Proceeding with Financial Assistance. Once the issued Finding of No Significant Impact becomes effective, financial assistance may be awarded; however, if the Department later determines the project or environmental conditions have changed significantly, further environmental review may be required and the Finding of No Significant Impact will be revoked.

(5) Environmental Impact Statement.

(a) General. An environmental impact statement will be required when the Department determines that any of the following conditions exist:

(A) The project will significantly affect the pattern and type of land use or growth and distribution of the population;

(B) The effects of the project's construction or operation will conflict with local or state laws or policies;

(C) The project may have significant adverse impacts upon:

(i) Wetlands,

(ii) Floodplains,

(iii) Threatened and endangered species or their habitats,

(iv) Sensitive environmental areas, including parklands, preserves, other public lands or areas of recognized scenic, recreational, agricultural, archeological or historic value;

(D) The project will displace population or significantly alter the characteristics of existing residential areas;

(E) The project may directly or indirectly, through induced development, have significant adverse effect upon local ambient air quality, local noise levels, surface or groundwater quality, fish, shellfish, wildlife or their natural habitats;

(F) The project is highly controversial; or

(G) The treated effluent will be discharged into a body of water where beneficial uses and associated special values of the receiving stream are not adequately protected by water quality standards or the effluent will not be of sufficient quality to meet these standards.

(b) Environmental Impact Statement Contents. At a minimum, the contents of an environmental impact statement will include:

(A) The purpose and need for the project;

(B) The environmental setting of the project and the future of the environment without the project;

(C) The alternatives to the project as proposed and their potential environmental impacts;

(D) A description of the proposed project;

(E) The potential environmental impact of the project as proposed including those which cannot be avoided;

(F) The relationship between the short-term uses of the environment and the maintenance and enhancement of long-term productivity; and

(G) Any irreversible and irretrievable commitments of resources to the proposed project;

(c) Procedures.

(A) If an environmental impact statement is required, the ~~{Department}~~ applicant shall publish a Notice of Intent to Prepare an Environmental Impact Statement in newspapers of state-wide and community-wide circulation.

(B) After the N~~{n}~~otice of I~~{i}~~ntent has been published, the ~~{Department}~~ applicant will contact all affected local, state and federal agencies, tribes or other interested parties to determine the scope required of the document. Comments shall be requested regarding:

(i) Significance and scope of issues to be analyzed, in depth, in the environmental impact statement;

(ii) Preliminary range of alternatives to be considered;

(iii) Potential cooperating agencies and the information or analyses that may be needed from them;

(iv) Method for environmental impact statement preparation and the public participation strategy;

(v) Consultation requirements of other environmental laws; and

(vi) Relationship between the environmental impact statement and the completion of the facility plan and any necessary arrangements for coordination of preparation of both documents.

(C) The applicant shall prepare and submit the draft environmental impact statement to the Department for Department approval. The Department may require any changes necessary to comply with the requirements of OAR 340-54-050.

(D) {(G)} The applicant shall {Prepare and} submit {a} the DEQ approved draft environmental impact statement to all affected agencies or parties for review and comment.

(E) {(D)} Following publication of a public notice in a newspaper of community-wide and state-wide circulation, the applicant shall allow a 30-day comment period, and conduct a public hearing on the draft environmental impact statement.

(F) {(E)} The applicant shall {P}prepare and submit a final environmental impact statement (FEIS) addressing all agency and public input to the Department for Department approval. The Department may require any change necessary to comply with the requirements of OAR 340-54-050.

(G) The applicant shall provide a 30-day comment period on the DEQ approved FEIS.

(H) {(F)} Upon completion of a FEIS, the Department will issue a Record of Decision (ROD) documenting the mitigative measures which will be required of the applicant. The loan agreement will be conditioned upon such mitigative measures. The Department will allow a 30-day comment period for the ROD {and FEIS}.

(I) {(G)} Material incorporated into an environmental impact statement by reference will be organized to the extent possible into a supplemental information document and be made available for public review upon request. No material may be incorporated by reference unless it is reasonably available for inspection by interested persons.

(d) Proceeding with Financial Assistance. Once the issued Record of Decision becomes effective, financial assistance may be awarded; however, if the Department later determines the project or environmental conditions have changed significantly, further environmental review may be required and the Record of Decision will be revoked.

(e) Environmental Impact Statement Costs

(A) The cost of preparing the environmental impact statement must be paid by the applicant and may, at the request of the public agency, be included as part of the SRF project cost.

(B) If, after preparation of the environmental impact statement, it is determined that the project or a reasonable alternative is not feasible, SRF repayment may be deferred until a feasible, environmentally acceptable project can be implemented.

(6) Previous Environmental Reviews. If a federal environmental review for the project has been conducted, the Department may, at its discretion, adopt all or part of the federal agency's documentation.

(7) Validity of Environmental Review. Environmental determinations under this section are valid for five years. If a financial assistance application is received for a project with an environmental determination which is more than five years old, or if conditions or project scope have changed significantly since the last determination, the Department will reevaluate the project, environmental conditions, and public comments and will either:

(a) Reaffirm the earlier decision;

(b) Require supplemental information to the earlier Environmental Impact Statement, Environmental Assessment [~~Information Document~~], or Request for Categorical Exclusion. Based upon a review of the updated document, the Department will issue and distribute a revised notice of categorical exclusion, Finding of No Significant Impact, or Record of Decision; or

(c) Require a revision to the earlier Environmental Impact Statement, Environmental Assessment [~~Information Document~~], or Request for Categorical Exclusion. If a revision is required, the applicant must repeat all requirements outlined in this section.

(8) Appeal. An affected party may appeal a notice of categorical exclusion, a Finding of No Significant Impact, or a Record of Decision pursuant to procedures pursuant to [~~in~~] the Oregon Administrative Procedures Act, ORS 183.484.

LOAN APPROVAL AND REVIEW CRITERIA

340-54-055

(1) Loan Approval. The final SRF loan application must be reviewed and approved by the Director.

(2) Loan Review Criteria. In order to get approval of a final SRF loan application, the [~~following~~] criteria listed below must be met [~~:~~]. In addition, the Department may establish other loan criteria as appropriate, including but not limited to an opinion of bond counsel.

(a) The applicant must submit a completed final loan application including all information required under OAR 340-54-035, 340-54-040, or 340-54-045 whichever is applicable;

(b) There [~~are~~] must be available [~~adequate funds in the~~] SRF funds to finance the loan;

(c) The project [~~is~~] must be eligible for funds under this chapter;

[~~(d) The State of Oregon's bond counsel finds that the applicant has the legal authority to incur the debt;~~]

(d) [~~(e)~~] The applicant must demonstrate to the Director's satisfaction its ability to repay a loan and, where applicable, its ability to ensure ongoing operation and maintenance (including replacement) of the proposed water pollution control facility. In addition, for revenue secured loans described under OAR 340-54-065(2), the Department may require [~~at a minimum, unless waived by the Director,~~] the following criteria to [~~must~~] be met:

(A) Where applicable, the existing water pollution control facilities are free from operational and maintenance problems which would materially impede the proposed system's function or the public agency's ability to repay the loan from user fees as demonstrated by the opinion of a registered engineer or other expert acceptable to the Department;

(B) Historical and projected system rates and charges, when considered with any consistently supplied external support, must be sufficient to fully fund operation, maintenance, and replacement costs, any existing indebtedness and the debt service expense of the proposed borrowing;

(C) To the extent that projected system income is materially greater than historical system income, the basis for the projected increase must be reasonable and documented as to source;

(D) The public agency's income and budget data must be computationally accurate and must include three ~~four~~ years' historical financial statements, the current budget and one years' projected financial statements of consolidated sewer system revenues, expenses, assets and liabilities.

(E) The budget of the project including proposed capital costs, site work costs, engineering costs, administrative costs and any other costs which will be supported by the proposed revenue secured loan must be reflected in the public agency's data;

(F) Audits during the last ~~four~~ three years are free from adverse opinions or disclosures which cast significant doubt on the borrower's ability to repay the Revenue Secured Loan in a timely manner;

(G) The proposed borrowing's integrity is not at risk from undue dependence upon a limited portion of the system's customer base and a pattern of delinquency on the part of that portion of the customer base;

(H) The public agency must have the ability to bring effective sanctions to bear on non-paying customers; and

(I) The opinion of the pubic agency's legal counsel or a certificate from the public agency which states that no litigation exists or has been threatened which would cast doubt on the enforceability of the borrower's obligations under the loan.

LOAN AGREEMENT AND CONDITIONS

340-54-060

The loan agreement shall contain conditions including, but not limited to, the following, where applicable to the type of project being financed:

(1) Accounting.

(a) Applicant shall use accounting, audit and fiscal procedures which conform to generally accepted government accounting standards.

(b) Project files and records must be retained by the borrower for at least three (3) years after performance certification. Financial files and records must be retained until the loan is fully amortized.

(c) Project accounts must be maintained as separate accounts.

(2) Wage Rates. Applicant shall ensure compliance with federal wage rates established under the Davis-Bacon Act.

(3) Operation and Maintenance Manual. If the SRF loan is for design and construction or construction only, the borrower shall submit a facility operation and maintenance manual which meets Department approval before the project is 75% complete.

(4) Value Engineering. A value engineering study satisfactory to the Department must be performed for design and construction projects prior to commencement of construction if the total project cost will exceed $10 million.

(5) Plans and Specifications. Applicant must submit and receive Departmental approval of project plans and specifications prior to commencement of construction, in conformance with OAR Chapter 340, Division 52.

(6) Inspections and Progress Reports. During the building of the project, the borrower shall provide inspections in sufficient number to ensure the project complies with approved plans and specifications. These inspections shall be conducted by qualified inspectors under the direction of a registered civil, mechanical or electrical engineer, whichever is appropriate. The Department or its representatives may conduct interim {~~building~~} inspections and require progress reports sufficient to determine compliance with approved plans and specifications and with the loan agreement {~~,-as appropriate~~}.

(7) Loan Amendments.

(a) Changes in the project work that are consistent with the objectives of the project and that are within the scope and funding level of the loan do not require the execution of a formal loan amendment. However, if additional loan funds are needed, a loan amendment shall be required.

(b) If the total of all loan amendments will not exceed 10% of the total amount approved in the original loan agreement, loan amendments increasing the originally approved loan amount may be requested at any time during the project. The Department may approve these loan amendments if the borrower demonstrates the legal authority to borrow.

(c) If the total of all loan amendments will exceed 10% of the total amount approved in the original loan agreement, loan amendments increasing the originally approved loan amount must be requested prior to implementation of changes in project work. The Department may approve these loan amendments if the borrower demonstrates the legal authority to borrow and the financial capability to repay the increased loan amount.

(d) The borrower must amend the loan agreement after bids for the project are received if the bids indicate that the project costs will be less than projected. Other {b}loan amendments decreasing the loan amount must {may} be requested no later than the date of completion of a positive performance certification {at the end of a project} when the final cost of the project is less than the total amount approved in the original loan agreement.

(8) Change Orders. Upon execution, the borrower must submit change orders to the Department. The Department shall review the change orders to determine the eligibility of the project change.

(9) Project Performance Certification.

(a) Project performance standards must be submitted by the borrower and approved by the Department before the project is 50 percent complete.

(b) The borrower shall notify the Department within thirty (30) days of the actual date of initiation of operation.

(c) One year after initiation of operation, the borrower shall certify whether the facility meets Department approved project performance standards.

(d) If the project is completed, or is completed except for minor items, and the facility is operable, but the borrower has not sent its notice of initiation of operation, the Department may assign an initiation of operation date.

(e) The borrower shall, pursuant to a Department approved corrective action plan, correct any factor that does not meet the Department approved project performance standards.

(10) Eligible Construction Costs. Payments for construction costs shall be limited to {eligible} work that complies with plans and specifications {as} approved by the Department.

(11) Adjustments. The Department may at any time review and audit requests for payment and make adjustments for, but not limited to, math errors, items not built or bought, and unacceptable construction.

(12) Contract and Bid Documents. The borrower shall submit a copy of the awarded contract and bid documents to the Department.

(13) Audit. An audit consistent with generally accepted accounting procedures of project expenditures will be conducted by the borrower within one year after performance certification. This audit shall be paid for by the borrower and shall be conducted by a financial auditor approved by the Department.

(14) Operation and Maintenance. The borrower shall provide for adequate operation and maintenance (including replacement) of the facility and shall retain sufficient operating personnel to operate the facility.

(15) Default Remedies. Upon default by a borrower, the Department shall have the right to pursue any remedy available at law or in equity and may appoint a receiver at the expense of the public agency to operate the utility which produces pledged revenues and set and collect utility rates and charges. The Department may also withhold any amounts otherwise due to the public agency from the State of Oregon and direct that such funds be applied to the debt service due on the SRF loan [~~indebtedness~~] and deposited in the fund. If the Department finds that the loan to the public agency is otherwise adequately secured, the Department may waive this right to withhold state shared revenue in the loan agreement or other loan documentation.

(16) Release. The borrower shall release and discharge the Department, its officers, agents, and employees from all liabilities, obligations, and claims arising out of the project work or under the loan, subject only to exceptions previously contractually arrived at and specified in writing between the Department and the borrower.

(17) Effect of Approval or Certification of Documents. Review and approval of facilities plans, design drawings and specifications or other documents by or for the Department does not relieve the borrower of its responsibility to properly plan, design, build and effectively operate and maintain the treatment works as required by law, regulations, permits and good management practices. The Department is not responsible for any project costs or any losses or damages resulting from defects in the plans, design drawings and specifications or other subagreement documents.

(18) Reservation of Rights.

(a) Nothing in this rule prohibits a borrower from requiring more assurances, guarantees, or indemnity or other contractual requirements from any party performing project work; and

(b) Nothing in the rule affects the Department's right to take remedial action, including, but not limited to, administrative enforcement action and actions for breach of contract against a borrower that fails to carry out its obligations under this chapter.

(19) Other provisions. SRF loans shall contain such other provisions as the Director may reasonably require to meet the goals of the Clean Water Act and ORS 468.423 to 468.440.

LOAN TERMS AND INTEREST RATES

340-54-065

As required by ORS 468.440, the following loan terms and interest rates are established in order to provide loans to projects which enhance or protect water quality; to provide loans to public agencies capable of repaying the loan; to establish an interest rate below market rate so that the loans will be affordable; to provide loans to all sizes of communities which need to finance projects; to provide loans to the types of projects described in these rules which address water pollution control problems; and to provide loans to all public agencies, including those which can and cannot borrow elsewhere.

(1) Types of Loans. An SRF loan must be one of the following types of loans:

(a) The loan must be a general obligation bond, or other full faith and credit obligation of the borrower, which is supported by the public agency's unlimited ad valorem taxing power; or

(b) The loan must be a bond or other obligation of the public agency which is not subject to appropriation, and which has been rated investment grade by Moody's Investor Services, Standard and Poor's Corporation, or another national rating service acceptable to the Director; or

(c) The loan must be a Revenue Secured Loan which complies with section (2) of this rule; or

(d) The loan must be an Alternative Loan which complies with section (3) of this rule; or

(e) The loan must be a Discretionary Loan which complies with section (4) {(3)} of this rule.

(2) Revenue Secured Loans. These loans shall:

(a) Be bonds, loan agreements, or other unconditional obligations to pay from specified revenues which are pledged to pay to the borrower; the obligation to pay may not be subject to the appropriation of funds;

(b) Contain a rate covenant which requires the borrower to impose and collect each year {pledged} revenues which are sufficient to pay all expenses of operation and maintenance (including replacement) of the facilities which are financed with the loan {borrowing} and the facilities which produce the {pledged} revenues, all debt service and other financial obligations (such as contributions to reserve accounts) imposed in connection with prior lien obligations, plus an amount equal to the product of the coverage factor shown in subsection (d) of this section times the debt service due in that year on the SRF loan {and all obligations which have an equal or superior lien on the pledged

~~revenues~~}. The coverage factor selected from subsection (d) of this section shall correspond to the reserve percentage selected for the SRF loan~~[;]~~. If the public agency may incur, or has outstanding, prior lien obligations which, in the judgment of the Department, have inadequate reserves or otherwise may adversely affect the ability of the public agency to pay the SRF loan, the Department may require that the public agency agree in its rate covenant to impose and collect additional revenues to provide coverage on such prior lien obligations, in amounts determined by the Department.

(c) (A) Require the public agency to maintain in each year the SRF loan is outstanding, a pledged reserve which is dedicated to the payment of the SRF loan.

(B) Maintain a ~~[The amount of the]~~ reserve amount ~~[shall be]~~ which is at least equal to the product of the reserve percentage shown in subsection (d) of this section times the average annual debt service. The average annual debt service shall be based on the debt service due between the project completion date as estimated in the loan agreement and the estimated date of the final SRF loan payment ~~[due in the following year on the SRF loan, and all obligations which have an equal or superior lien on the pledged revenues.]~~ The reserve percentage selected from subsection (d) of this section shall correspond to the coverage factor selected for the SRF loan.

(C) Fund the reserves ~~[shall be funded]~~ with a letter of credit, repayment guaranty, other third party commitment to advance funds which is satisfactory to the Department, or cash of the public agency (other than SRF loan proceeds). If it is determined by the Department that funding of the reserve as described above imposes an undue hardship on the public agency, and an Alternative Loan as described in OAR 340-54-065(3) is not feasible, then the Department may allow reserves to be funded with SRF loan proceeds. ~~[or a letter of credit or other third party commitment to advance funds which is satisfactory to the Director;]~~ In cases where the Department allows reserves to be funded with SRF loan proceeds, such reserves shall be held by the Department on behalf of the public agency, and all interest earned on the reserves over and above the interest rate on the SRF loan will be kept by the Department.

(d) Comply with the one of following coverage factors and reserve percentages:

Coverage Factor	Reserve Percentage
1.05:1	100%
1.15:1	75%
1.25:1	50%
1.35 ~~[1.50]~~:1	25%

(e) Contain a covenant to review rates periodically, and to adjust rates, if necessary, so that estimated revenues in subsequent years will be sufficient to comply with the rate covenant;

(f) Contain a covenant that, if {pledged} revenues fail to achieve the level required by the rate covenant, the public agency will promptly adjust rates and charges to assure future compliance with the rate covenant. However, failure to adjust rates shall not constitute a default if the public agency transfers unencumbered {unpledged} resources in an amount equal to the revenue deficiency to the utility system which produces the {pledged} revenues;

(g) Follow the payment schedule in the loan agreement which shall require monthly SRF loan payments to the Department. If the Department determines that monthly loan payments are not practicable for the borrower, the payment schedule shall require periodic loan payments as frequently as possible, with monthly deposits to a dedicated loan payment account whenever practicable;

(h) Contain a covenant that, if the reserve account is depleted for any reason, the public agency will take prompt action to restore the reserve to the required minimum amount;

(i) Contain a covenant restricting additional debt appropriate to the financial condition of the borrower {that the public agency will not, except as provided in the SRF loan documentation, incur obligations (except for operating expenses) which have a lien on the pledged revenues which is equal or superior to the lien of the SRF loan, without the prior written consent of the Director. The Director shall withhold consent only if the Director determines that incurring such obligations would materially impair the ability of the public agency to repay the SRF loan or the security for the SRF loan};

(j) Contain a covenant that the borrower will not sell, transfer or encumber any financial or fixed asset of the utility system which produces the pledged revenues, if the public agency is in violation of any SRF loan covenant, or if such sale, transfer or encumbrance would cause a violation of any SRF loan covenant.

(3) Alternative Loan. Alternative Loans are to be used if the public agency would incur unnecessary costs or excessive burdens by entering into a Revenue Secured Loan, or if the public agency offers an alternative method of financing which is reasonable. The Director may authorize an Alternative Loan to a public agency, if the public agency demonstrates to the satisfaction of the Director that:

(a) It would be unduly burdensome or costly to the public agency to borrow money from the SRF under subsections (a), (b), or (c) of Section 340-54-065; and,

(b) The Alternative Loan has a credit quality which is substantially equal to, or better than, the credit quality of a Revenue Secured Loan to that public agency.

In determining whether an Alternative Loan meets the requirements of subsection (3)(b) of this section, the Director may consult with the Department's financial advisor, and may charge the public agency applying for an Alternative Loan the reasonable costs of such consultation.

(4)[~~(3)~~] Discretionary Loan. A Discretionary Loan shall be made only to a small community [~~a public agency which has a population of less than 5,000 persons~~] which, in the judgment of the Director, cannot practicably comply with the requirements of OAR 340-54-065(1)(a), (b), [~~or~~] (c), or (d). Discretionary Loans shall comply with OAR 340-54-065(5)[~~(4)~~] of this section, and otherwise be on terms approved by the Director. The total principal amount of Discretionary Loans made in any fiscal year shall not exceed five percent of the money available to be loaned from the SRF in that fiscal year.

(5)[~~(4)~~] Interest Rates.

(a) Zero percent interest rate. SRF loans which are fully amortized within five years after project completion, as estimated in the loan agreement, shall bear no interest; at least three percent of the original principal amount of the loan shall be repaid each year.

(b) Three percent interest rate.

(A) All SRF loans, other than Discretionary Loans, in which the final principal payment is due more than five years after project completion, as estimated in the loan agreement, [~~the loan is made~~] shall bear interest at a rate of three percent per annum, compounded annually; shall have approximately level annual debt service during the period which begins with the first principal repayment and ends with the final principal repayment; and, shall require all principal and interest to be repaid within twenty years after project completion, as estimated in the loan agreement.

(B) A Discretionary Loan shall bear the interest rate of three percent per annum, compounded annually; shall schedule principal and interest repayments as rapidly as is consistent with estimated revenues (but no more rapidly than would be required to produce level debt service during the period of principal repayment); and, shall require all principal and interest to be repaid within twenty years after project completion, as estimated in the loan agreement.

(c) Review of interest rate. The interest rates on SRF loans described in OAR 340-54-065(5)[(4)](a) and (b) shall be in effect for loans made by September 30, 1991. Thereafter, interest rates may be adjusted by the EQC, if necessary, to assure compliance with ORS 468.440.

(6)[(5)] Interest Accrual. Interest accrual begins at the time of each loan disbursement from the SRF to the borrower.

(7)[(6)] Commencement of Loan Repayment. Except as provided in OAR 340-54-065(5)[(4)](a), principal and interest repayments on loans shall begin within one year after the date of project completion as estimated in the loan agreement.

(8)[(7)] Minor Variations in Loan Terms. The Department may permit insubstantial variations in the financial terms of loans described in this section, in order to facilitate administration and repayment of loans.

SPECIAL RESERVES

340-54-070

(1) Facility Planning Reserve. Each fiscal year, 10 percent of the total available SRF will be set aside for loans for facility planning. However, if preliminary applications for facility planning representing 10 percent of the available SRF are not approved, these funds may be allocated to other projects.

(2) Small Community[ies] Reserve.

(a) Each fiscal year, 15 percent of the total available SRF will be set aside for loans to small communities. However, if preliminary applications from small communities representing 15 percent of the available SRF are not received, these funds may be allocated to other public agencies.

(b) In order to be eligible for small communities reserve funds, the small community must receive a SRF Priority List Ranking with at least 30 Enforcement Water Quality Violation points (see OAR 340-54-025(4)(a).

LOAN LIMITATIONS [~~MAXIMUM-LOAN-AMOUNT~~]

340-54-075

(1) Maximum Loan Amount. In any fiscal year, no public agency on the [~~p~~]Priority [~~l~~]List may receive more than 15 [~~25~~] percent of the total available SRF. However, if the SRF funds are not otherwise allocated, a public agency may apply for more than 15 [~~25~~] percent of the available SRF, not to exceed the funds available in the SRF.

(2) Minimum Loan Amount. No SRF loan shall be approved if the total amount of the SRF loan is less than $20,000.

for each such class. The fee for the issuance of certificates shall be established by the commission in an amount based upon the costs of administering this program established in the current biennial budget. The fee for a certificate shall not exceed $10.

(2) The department shall collect the fees established pursuant to paragraph (b) of subsection (1) of this section at the time of the issuance of certificates of compliance as required by ORS 468.390 (2)(c).

(3) On or before the 15th day of each month, the commission shall pay into the State Treasury all moneys received as fees pursuant to subsections (1) and (2) of this section during the preceding calendar month. The State Treasurer shall credit such money to the Department of Environmental Quality Motor Vehicle Pollution Account, which is hereby created. The moneys in the Department of Environmental Quality Motor Vehicle Pollution Account are continuously appropriated to the department to be used by the department solely or in conjunction with other state agencies and local units of government for:

(a) Any expenses incurred by the department and, if approved by the Governor, any expenses incurred by the Motor Vehicles Division of the Department of Transportation in the certification, examination, inspection or licensing of persons, equipment, apparatus or methods in accordance with the provisions of ORS 468.390 and 815.310.

(b) Such other expenses as are necessary to study traffic patterns and to inspect, regulate and control the emission of pollutants from motor vehicles in this state.

(4) The department may enter into an agreement with the Motor Vehicles Division of the Department of Transportation to collect the licensing and renewal fees described in paragraph (a) of subsection (1) of this section subject to the fees being paid and credited as provided in subsection (3) of this section. (Formerly 449.965; 1974 s.s. c.73 §5; 1975 c.535 §3; 1977 c.704 §10; 1981 c.294 §1; 1983 c.239 §936)

468.410 Authority to limit motor vehicle operation and traffic. The commission and regional air pollution control authorities organized pursuant to ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.405, 454.425, 454.505 to 454.535, 454.605 to 454.745 and this chapter by rule may regulate, limit, control or prohibit motor vehicle operation and traffic as necessary for the control of air pollution which presents an imminent and substantial endangerment to the health of persons. (Formerly 449.747)

468.415 Administration and enforcement of rules adopted under ORS 468.410. Cities, counties, municipal corporations and other agencies, including the Department of State Police and the Highway Division, shall cooperate with the commission and regional air pollution control authorities in the administration and enforcement of the terms of any rule adopted pursuant to ORS 468.410. (Formerly 449.751)

468.420 Police enforcement. The Oregon State Police, the county sheriff and municipal police are authorized to use such reasonable force as is required in the enforcement of any rule adopted pursuant to ORS 468.410 and may take such reasonable steps as are required to assure compliance therewith, including but not limited to:

(1) Locating appropriate signs and signals for detouring, prohibiting and stopping motor vehicle traffic; and

(2) Issuing warnings or citations. (Formerly 449.753)

FINANCING TREATMENT WORKS

468.423 Definitions for ORS 468.423 to 468.440. As used in ORS 468.423 to 468.440:

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

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

(3) "Director" means the Director of the Department of Environmental Quality or the director's designee.

(4) "Fund" means the Water Pollution Control Revolving Fund established under ORS 468.427.

(5) "Public agency" means any state agency, incorporated city, county, sanitary authority, county service district, sanitary district, metropolitan service district or other special district authorized or required to construct water pollution control facilities.

(6) "Treatment works" means:

(a) The devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature, necessary to recycle or reuse water at the most economical cost over the estimated life of the works. "Treatment works" includes:

(A) Intercepting sewers, outfall sewers, sewage collection systems, pumping power and other equipment, and any appurtenance, exten-

sion, improvement, remodeling, addition or alteration to the equipment;

(B) Elements essential to provide a reliable recycled water supply including standby treatment units and clear well facilities; and

(C) Any other acquisitions that will be an integral part of the treatment process or used for ultimate disposal of residues resulting from such treatment, including but not limited to land used to store treated waste water in land treatment systems prior to land application.

(b) Any other method or system for preventing, abating, reducing, storing, treating, separating or disposing of municipal waste, storm water runoff, industrial waste or waste in combined storm water and sanitary sewer systems.

(c) Any other facility that the commission determines a public agency must construct or replace in order to abate or prevent surface or ground water pollution. [1987 c.648 §1]

Note: 468.423 to 468.440 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 468 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

468.425 Policy. It is declared to be the policy of this state:

(1) To aid and encourage public agencies required to provide treatment works for the control of water pollution in the transition from reliance on federal grants to local self-sufficiency by the use of fees paid by users of the treatment works;

(2) To accept and use any federal grant funds available to capitalize a perpetual revolving loan fund; and

(3) To assist public agencies in meeting treatment works' construction obligations in order to prevent or eliminate pollution of surface and ground water by making loans from a revolving loan fund at interest rates that are less than or equal to market interest rates. [1987 c.648 §2]

Note: See note under 468.423.

468.427 Water Pollution Control Revolving Fund; sources. (1) The Water Pollution Control Revolving Fund is established separate and distinct from the General Fund in the State Treasury. The moneys in the Water Pollution Control Revolving Fund are appropriated continuously to the department to be used for the purposes described in ORS 468.429.

(2) The Water Pollution Control Revolving Fund shall consist of:

(a) All capitalization grants provided by the Federal Government under the federal Water Quality Act of 1986;

(b) All state matching funds appropriated or authorized by the legislature;

(c) Any other revenues derived from gifts, grants or bequests pledged to the state for the purpose of providing financial assistance for water pollution control projects;

(d) All repayments of moneys borrowed from the fund;

(e) All interest payments made by borrowers from the fund; and

(f) Any other fee or charge levied in conjunction with administration of the fund.

(3) The State Treasurer may invest and reinvest moneys in the Water Pollution Control Revolving Fund in the manner provided by law. All earnings from such investment and reinvestment shall be credited to the Water Pollution Control Revolving Fund. [1987 c.648 §3]

Note: See note under 468.423.

468.429 Uses of revolving fund. (1) The Department of Environmental Quality shall use the moneys in the Water Pollution Control Revolving Fund to provide financial assistance:

(a) To public agencies for the construction or replacement of treatment works.

(b) For the implementation of a management program established under section 319 of the federal Water Quality Act of 1986 relating to the management of nonpoint sources of pollution.

(c) For development and implementation of a conservation and management plan under section 320 of the federal Water Quality Act of 1986 relating to the national estuary program.

(2) The department may also use the moneys in the Water Pollution Control Revolving Fund for the following purposes:

(a) To buy or refinance the treatment works' debt obligations of public agencies if such debt was incurred after March 7, 1985.

(b) To guarantee, or purchase insurance for, public agency obligations for treatment works' construction or replacement if the guarantee or insurance would improve credit market access or reduce interest rates, or to provide loans to a public agency for this purpose.

(c) To pay the expenses of the department in administering the Water Pollution Control Revolving Fund. [1987 c.648 §4]

Note: See note under 468.423.

468.430 [1983 c.218 §1; repealed by 1985 c.222 §6]

468.433 Duties of department. In administering the Water Pollution Control Revolving Fund, the department shall:

(1) Allocate funds for loans in accordance with a priority list adopted by rule by the commission.

(2) Use accounting, audit and fiscal procedures that conform to generally accepted government accounting standards.

(3) Prepare any reports required by the Federal Government as a condition to awarding federal capitalization grants. [1987 c.648 §5]

Note: See note under 468.423.

468.435 [1983 c.213 §2; repealed by 1985 c.222 §6]

468.437 Loan applications; eligibility; waiver; default remedy. (1) Any public agency desiring a loan from the Water Pollution Control Revolving Fund shall submit an application to the department on the form provided by the department. Each applicant shall demonstrate to the satisfaction of the State of Oregon bond counsel that the applicant has the legal authority to incur the debt. To the extent that a public agency relies on the authority granted by law or charter to issue revenue bonds pursuant to the Uniform Revenue Bonding Act, the department may waive the requirements for the findings required for a private negotiated sale and for the preliminary official statement.

(2) Any public agency receiving a loan from the Water Pollution Control Revolving Fund shall establish and maintain a dedicated source of revenue or other acceptable source of revenue for the repayment of the loan.

(3) If a public agency defaults on payments due to the Water Pollution Control Revolving Fund, the state may withhold any amounts otherwise due to the public agency and direct that such funds be applied to the indebtedness and deposited into the fund. [1987 c.648 §6]

Note: See note under 468.423.

468.440 Loan terms and interest rates; considerations. (1) The Environmental Quality Commission shall establish by rule policies for establishing loan terms and interest rates for loans made from the Water Pollution Control Revolving Fund that assure that the objectives of ORS 468.423 to 468.440 are met and that adequate funds are maintained in the Water Pollution Control Revolving Fund to meet future needs. In establishing the policy, the commission shall take into consideration at least the following factors:

(a) The capability of the project to enhance or protect water quality.

(b) The ability of a public agency to repay a loan.

(c) Current market rates of interest.

(d) The size of the community or district to be served by the treatment works.

(e) The type of project financed.

(f) The ability of the applicant to borrow elsewhere.

(2) The commission may establish an interest rate ranging from zero to the market rate. The term of a loan may be for any period not to exceed 20 years.

(3) The commission shall adopt by rule any procedures or standards necessary to carry out the provisions of ORS 468.423 to 468.440. [1987 c.648 §7]

Note: See note under 468.423.

Note: Section 8, chapter 648, Oregon Laws 1987, provides:

Sec. 8. Before awarding the first loan from the Water Pollution Control Revolving Fund, the Department of Environmental Quality shall submit an informational report to the Joint Committee on Ways and Means or, if during the interim between sessions of the Legislative Assembly, to the Emergency Board. The report shall describe the Water Pollution Control Revolving Fund program and set forth in detail the operating procedures of the program. [1987 c.648 §8]

FIELD BURNING REGULATION

468.450 Regulation of field burning on marginal days. (1) As used in this section:

(a) "Marginal conditions" means atmospheric conditions such that smoke and particulate matter escape into the upper atmosphere with some difficulty but not such that limited additional smoke and particulate matter would constitute a danger to the public health and safety.

(b) "Marginal day" means a day on which marginal conditions exist.

(2) In exercising its functions under ORS 476.380 and 478.960, the commission shall classify different types or combinations of atmospheric conditions as marginal conditions and shall specify the extent and types of burning that may be allowed under different combinations of atmospheric conditions. A schedule describing the types and extent of burning to be permitted on each type of marginal day shall be prepared and circulated to all public agencies responsible for providing information and issuing permits under ORS 476.380 and 478.960. The schedule shall give first priority to the burning of perennial grass seed crops used for grass seed production, second priority to annual grass seed crops used for grass seed production, third priority to grain crop burning, and fourth priority to all other

Senate Bill 1097

Sponsored by Senator OTTO (at the request of Association of Oregon Sewerage Agencies)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Allows public agency to borrow directly from Water Pollution Control Revolving Fund. Allows public agency to waive notice of sale, official statement and other procedures if borrowing directly from Department of Environmental Quality.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to pollution control; creating new provisions; amending ORS 468.437; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this Act is added to and made a part of ORS 468.423 to 468.440.

SECTION 2. Notwithstanding any limitation contained in any other provision of law or local charter, a public agency may:

(1) Borrow money from the Water Pollution Control Revolving Fund through the department;

(2) Enter into loan agreements and make related agreements with the department in which the public agency agrees to repay the borrowed money in accordance with the terms of the loan agreement;

(3) Covenant with the department regarding the operation of treatment works and the imposition and collection of rates, fees and charges for the treatment works; and

(4) Pledge all or part of the revenues of the treatment works to pay the amount due under the loan agreement and notes in accordance with ORS 288.594..

SECTION 3. ORS 468.437 is amended to read:

468.437. (1) Any public agency desiring a loan from the Water Pollution Control Revolving Fund shall submit an application to the department on the form provided by the department. [*Each applicant shall demonstrate to the satisfaction of*] **The department may require an opinion from** the State of Oregon bond counsel that the applicant has the legal authority to [*incur the debt*] **borrow from the Water Pollution Control Revolving Fund.** [*To the extent that a public agency relies on the authority granted by law or charter to issue revenue bonds pursuant to the Uniform Revenue Bonding Act, the department may waive the requirements for the findings required for a private negotiated sale and for the preliminary official statement.*] **If a public agency relies on borrowing authority granted by charter or law other than section 2 of this 1989 Act, then with the consent of the department and notwithstanding any limitation or requirement of the charter or law, the public agency may borrow directly from the Water Pollution Control Revolving Fund without publishing a notice of sale, providing an official statement or following any. other procedures designed to provide notice or information to potential lenders. The requirements of ORS 288.845 shall not apply to revenue bonds that are sold to the department.**

(2) Any public agency receiving a loan from the Water Pollution Control Revolving Fund shall

NOTE: Matter in bold face in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.

establish and maintain a dedicated source of revenue or other acceptable source of revenue for the repayment of the loan.

(3) If a public agency defaults on payments due to the Water Pollution Control Revolving Fund, the state may withhold any amounts otherwise due to the public agency and direct that such funds be applied to [*the indebtedness*] **the payments** and deposited into the fund. **If the department finds that the loan to the public agency is otherwise adequately secured, the department may waive this right in the loan agreement or other loan documentation.**

SECTION 4. This Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Act takes effect on its passage.

Findings Justifying Adoption of a Temporary Rule

The following findings regarding the development of the temporary rule are intended to comply with the requirements of ORS 183.335(5) (see Attachment E).

1. Failure to act promptly will result in serious prejudice to the public interest.

   In order for the Department to solicit applications in time to develop an SRF priority list for this year's funding cycle, temporary rules must be adopted in May. If development of the priority list does not begin in May, Oregon will not be able to complete a 1990 Intended Use Plan for EPA and will be ineligible to receive additional funds from reallotment of SRF funds not spent by other states.

2. Statutory authority.

   The legal authority for the proposed rules is included in ORS 468.440. This statute allows the EQC to establish by rule policies for the loan program.

3. Statement of need for the rule.

   The State Revolving Fund (SRF) rule amendments are needed to simplify the SRF priority system; amend the environmental review process; to change maximum loan amount; and to change the types of loans available.

(b) The agency shall include with the notice of intended action given under subsection (1) of this section:

(A) A citation of the statutory or other legal authority relied upon and bearing upon the promulgation of the rule;

(B) A statement of the need for the rule and a statement of how the rule is intended to meet the need;

(C) A list of the principal documents, reports or studies, if any, prepared by or relied upon by the agency in considering the need for and in preparing the rule, and a statement of the location at which those documents are available for public inspection. The list may be abbreviated if necessary, and if so abbreviated there shall be identified the location of a complete list; and

(D) A statement of fiscal impact identifying state agencies, units of local government and the public which may be economically affected by the adoption, amendment or repeal of the rule and an estimate of that economic impact on state agencies, units of local government and the public. In considering the economic effect of the proposed action on the public, the agency shall utilize available information to project any significant economic effect of that action on business, which shall include a cost of compliance effect on small businesses affected.

(c) The Secretary of State may omit the information submitted under paragraph (b) of this subsection from publication in the bulletin referred to in ORS 183.360.

(3) When an agency proposes to adopt, amend or repeal a rule, it shall give interested persons reasonable opportunity to submit data or views. Opportunity for oral hearing shall be granted upon request received from 10 persons or from an association having not less than 10 members within 15 days after agency notice. An agency holding a hearing upon a request made under this subsection is not required to give additional notice of the hearing in the bulletin referred to in ORS 183.360 if the agency gives notice in compliance with its rules of practice and procedure other than a requirement that notice be given in the bulletin. The agency shall consider fully any written or oral submission.

(4) Upon request of an interested person received within 15 days after agency notice pursuant to subsection (1) of this section, the agency shall postpone the date of its intended action no less than 10 nor more than 90 days in order to allow the requesting person an opportunity to submit data, views or arguments concerning the proposed action. Nothing in this subsection shall preclude an agency from adopting a temporary rule pursuant to subsection (5) of this section.

(5) Notwithstanding subsections (1) to (4) of this section, an agency may adopt, amend or suspend a rule without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable, if the agency prepares:

(a) A statement of its findings that its failure to act promptly will result in serious prejudice to the public interest or the interest of the parties concerned and the specific reasons for its findings of prejudice;

(b) A citation of the statutory or other legal authority relied upon and bearing upon the promulgation of the rule;

(c) A statement of the need for the rule and a statement of how the rule is intended to meet the need; and

(d) A list of the principal documents, reports or studies, if any, prepared by or relied upon by the agency in considering the need for and in preparing the rule, and a statement of the location at which those documents are available for public inspection.

(6)(a) A rule adopted, amended or suspended under subsection (5) of this section is temporary and may be effective for a period of not longer than 180 days. The adoption of a rule under this subsection does not preclude the subsequent adoption of an identical rule under subsections (1) to (4) of this section.

(b) A rule temporarily suspended shall regain effectiveness upon expiration of the temporary period of suspension unless the rule is repealed under subsections (1) to (4) of this section.

(7) Any person may request in writing that an agency mail to the person copies of its notices of intended action given pursuant to subsection (1) of this section. Upon receipt of any request the agency shall acknowledge the request, establish a mailing list and maintain a record of all mailings made pursuant to the request. Agencies may establish procedures for establishing and maintaining the mailing lists current and, by rule, establish fees necessary to defray the costs of mailings and maintenance of the lists.

(8) This section does not apply to rules establishing an effective date for a previously effective rule or establishing a period during which a provision of a previously effective rule will apply.

(9) This section does not apply to ORS 279.025 to 279.031 and 279.310 to 279.990 relating to public contracts and purchasing.

ATTACHMENT F

NEIL GOLDSCHMIDT
GOVERNOR

Environmental Quality Commission

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

REQUEST FOR EQC ACTION

Meeting Date: December 1, 1989
Agenda Item: G
Division: Water Quality
Section: Construction Grants

SUBJECT:

State Revolving Loan Fund (SRF): Proposed Adoption of Temporary Rules to Address 1989 Legislative Amendments and Problems Encountered in Initial Program Implementation

PURPOSE:

Obtain EQC approval of temporary rule needed to respond to emergency created by recent legislative changes and problems in the existing rule that limit program implementation.

ACTION REQUESTED:

___ Work Session Discussion
___ General Program Background
___ Potential Strategy, Policy, or Rules
___ Agenda Item ___ for Current Meeting
___ Other: (specify)

___ Authorize Rulemaking Hearing
_X_ Adopt Rules
Proposed Rules (Temporary) Attachment A
Rulemaking Statements Attachment ___
Fiscal and Economic Impact Statement Attachment ___
Public Notice Attachment ___

___ Issue a Contested Case Order
___ Approve a Stipulated Order
___ Enter an Order
Proposed Order Attachment ___

___ Approve Department Recommendation
___ Variance Request Attachment ___
___ Exception to Rule Attachment ___
___ Informational Report Attachment ___
___ Other: (specify) Attachment ___

DESCRIPTION OF REQUESTED ACTION:

The proposed temporary rule incorporates legislative changes made by the 1989 Oregon Legislature. These amendments allow direct loans to be made to public agencies from the SRF; eliminate the need for a bond counsel opinion for every SRF loan; and allow the Department to waive its right to withhold revenue sharing funds otherwise due to the public agency in the case of agency default.

In addition, the temporary rule allows the Department to make loans to public agencies which provide loan security that is different but substantially equivalent to the security required for other types of loans allowed by the rules. This change would give the Department the ability to make loans to communities which are unable to provide exactly the type of security which the rules currently require but which can provide other types of equivalent security.

AUTHORITY/NEED FOR ACTION:

x	Required by Statute: SB 1097 Enactment Date: June 30, 1989	Attachment C
x	Statutory Authority: ORS 468.423 to .440	Attachment B
___	Pursuant to Rule: _____	Attachment ___
___	Pursuant to Federal Law/Rule: _____	Attachment ___
___	Other:	Attachment ___
___	Time Constraints: Several public agencies have indicated that they need to begin receiving SRF loan funds by January, 1990. In order to complete loan agreements with these public agencies, the temporary rule amendments are necessary.	

DEVELOPMENTAL BACKGROUND:

___	Advisory Committee Report/Recommendation	Attachment ___
___	Hearing Officer's Report/Recommendations	Attachment ___
___	Response to Testimony/Comments	Attachment ___
x	Prior EQC Agenda Items: March 3, 1989 - SRF Rule Adoption OAR 340-54-005 to -075	Attachment A
___	Other Related Reports/Rules/Statutes: ORS 183.335 (5)	Attachment E
x	Supplemental Background Information Justification for Temporary Rule	Attachment D

REGULATED/AFFECTED COMMUNITY CONSTRAINTS/CONSIDERATIONS:

Without the temporary rule, some public agencies will not be able to fulfill existing loan requirements. When the existing rules were drafted, a section was included which requires a pledged reserve for revenue secured loans which could be much larger than is necessary or feasible. The pledged reserve is equal to a percentage of "the debt service due in the following year on the SRF loan and all obligations which have an equal or superior lien on the pledged revenues" (OAR 340-54-065(2)(c)). This could mean that a public agency getting a 20 year $4 million SRF loan which already has $16 million outstanding revenue bonds would have to pledge a reserve of between $250,000 and $1 million. The reserve would be required even if the public agency has already established a pledged reserve for the outstanding debt. This result was not intended by the rules and is addressed by the proposed temporary rule.

Also, under the existing rule, the Department would have the authority with all SRF loans to withhold revenue sharing monies in the case of default by an SRF borrower. For some jurisdictions, this authority could have the effect of reducing the bond local rating due to the potential effect on an important source of income for public facilities. The temporary rule reflects new statutory language in SB 1097 which clearly allows the Department to waive this authority.

Affected public agencies indicate support of the proposed temporary rule.

PROGRAM CONSIDERATIONS:

ORS 468.437, adopted in 1987, required an opinion from Oregon bond counsel regarding the applicants legal authority to borrow from the SRF. SB 1097 changed the SRF statute to make this opinion from Oregon bond counsel optional. The temporary rule makes the same change to the SRF rules. Oregon bond counsel has advised the Department that such an opinion is not always necessary, and that the average cost would likely be $2,000-$4,000 per opinion. Under the current rules, this cost would be borne by the Department.

ALTERNATIVES CONSIDERED BY THE DEPARTMENT:

1. Adopt a temporary rule which incorporates all changes made to the SRF statute by SB 1097. This approach was recommended by bond counsel.

2. Do not adopt a temporary rule to amend the existing rules. SB 1097 makes an opinion from Oregon bond counsel optional and allows the Department to waive the right to revenue sharing money. The Department could choose to exercise these options under SB 1097 which supercedes existing rules. The conflict between requirements in the rules and in SB 1097 could, however, lead to confusion for borrowers. Legal counsel recommends adoption of rules to avoid this conflict.

3. Adopt a temporary rule which allows the Department to accept other security than that specifically identified in the existing rules so long as it provides substantially the same amount of security as would be otherwise required. These amendments would provide a broad solution to the loan security problems created by the specificity of the existing SRF rules. This provides additional flexibility which could allow the Department to gear SRF loans to the needs of communities without compromising SRF loan security.

4. Adopt a temporary rule to change the language in the existing rule regarding loan reserves for revenue secured loans. Eliminate the requirement for the loan reserve to cover other debts with an equal or superior lien on the sewer revenues if the borrower has already pledged a reserve for these debts. Also require the reserve to be based on average annual debt service rather than on the next year's debt service since debt service can vary from year to year on some loans.

DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:

Adopt Alternatives 1, 3, and 4. These alternatives address known problems with the rules while providing the Department the greatest degree of flexibility in issuing loans without compromising the stability of the loan program. This flexibility is particularly important during the initial stages of program implementation since there will inevitably be circumstances arising which have not been anticipated. With more flexibility in the rules, these circumstances can be addressed without having to frequently return to the Commission for more rule changes. Oregon bond counsel has also recommended this course of action.

CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE POLICY:

The temporary rules are consistent with the legislative intent of SB 1097. They are also consistent with the original intent of the SRF rules to require an adequate amount of loan security to protect SRF monies without unduly burdening the SRF borrowers.

OTHER ISSUES FOR COMMISSION TO RESOLVE:

None.

INTENDED FOLLOWUP ACTIONS:

A SRF Task Force is being developed to review these and other issues. The Department will return to the Commission for authorization to hold a public hearing on these rules in January or February of 1990.

Approved:

Section: _____

Division: _____

Director: _____

Report Prepared By: Maggie Conley

Phone: 229-5257

Date Prepared: November 2, 1989

(MG:kjc)
(CG\WJ2371)
(November 9, 1989)

STATEMENT OF NEED FOR RULEMAKING

Pursuant to ORS 183.335(7), this statement provides information on the Environmental Quality Commission's intended action to amend rules.

Local Authority:

ORS 468.423 to 468.440 gives authority for establishment of the State Revolving Fund. ORS 468.440 gives the Commission the authority to adopt rules to carry out ORS 468.423 to 468.440.

Need for the Rule:

The State Revolving Fund (SRF) rule amendments are needed to simplify the SRF priority system; amend the environmental review process; to change maximum loan amount; and to change the types of loans available.

Fiscal and Economic Impact:

The amendment will add additional costs for SRF borrowers because the responsibility and cost of environmental assessments environmental impact statements is shifted from the Department to the borrower. The borrower will, however, be able to borrow low interest SRF money to cover the cost of preparing these documents.

The proposed rules lower the annual maximum loan amount from 25% of the SRF to 15% of the SRF. This change will insure that more communities are able to borrow SRF money each year.

The proposed rules allow greater flexibility in the type of loan security a borrower may provide. This change should make the SRF accessible to a broader variety of borrowers.

The impact of the rule amendment will have no affect on small businesses.

Land Use Consistency:

The proposal described appears to be consistent with all statewide planning goals. Specifically, the rules comply with Goal 6 because they would provide loans for water pollution control facilities, thereby contributing to the protection of water quality. The rules comply with Goal 11 because they assist communities in financing needed sewage collection and treatment facilities.

Public comment on this proposal is invited and may be submitted in the manner described in the accompanying Public Notice of Rules Adoption.

It is requested that local, state and federal agencies review the proposal and comment on possible conflicts with their programs affecting land use and with statewide planning goals within their jurisdiction. The Department of Environmental Quality intends to ask the Department of Land Conservation and Development to mediate any apparent conflicts thereby brought to its attention.

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

STATE REVOLVING LOAN FUND RULE AMENDMENT PUBLIC HEARING

Notice Issued: 5/1/90
Comments Due: 6/1/90

WHO IS AFFECTED: Adoption of the rule amendments will affect communities financing water pollution control facilities.

WHAT IS PROPOSED: Amendments to the State Revolving Loan Fund (SRF) rules (OAR Chapter 340, Division 54). The SRF provides low interest loans to communities for water pollution control projects, such as sewage treatment facilities.

WHAT ARE THE HIGHLIGHTS: The proposed SRF rules amendments change the SRF priority system, the environmental review process, project eligibility, maximum loan amounts and types of loan available.

HOW TO COMMENT: Written comments should be presented to DEQ by June 1, 1990 at the following address:

Maggie Conley
Department of Environmental Quality
Water Quality Division
811 S.W. Sixth Avenue
Portland, OR 97204
Telephone: 229-5257

Verbal comments may be given during the public hearing scheduled as follows:

10 a.m.
June 1, 1990
Room 10A - 10th floor
811 S.W. Sixth Avenue
Portland, Oregon

WHAT IS THE NEXT STEP: After the public hearing, the Environmental Quality Commission may adopt rules identical to those proposed, modify the rules or decline to act. The Commission's deliberation should come on June 29, 1990, as part of the agenda of a regularly scheduled Commission meeting.

ATTACHMENTS: Statement of Need for Rules (including Fiscal Impact)
Statement of Land Use Consistency

CG\WC6459 (4/20/90)

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

11/1/86

FOR FURTHER INFORMATION:

Contact the person or division identified in the public notice by calling 229-5696 in the Portland area. To avoid long distance charges from other parts of the state, call 1-800-452-4011.

STATE REVOLVING FUND TASK FORCE
MEETING SUMMARY
MARCH 20, 1990
10:30 AM TO 3:30 PM
DEQ HEADQUARTERS - ROOM 10A

MEMBERS PRESENT:

Terry Smith
Deputy Director of Public Works
Eugene *

Dan Helmick
Director of Fiscal Services
Clackamas County *

Greg DiLoreto
City Engineer
Gresham

B. J. Smith
League of Oregon Cities
Salem *

Steve Anderson
Anderson & Perry Engineers
La Grande

Kelly Fish
Public Representative
North Albany

Jon Jalali
Finance Director
Medford *

Ann Culbertson
Grants Coordinator
Unified Sewerage Agency
Washington County

Kathy Schacht
Metropolitan Waste Management
Commission
Springfield

Dave Gooley
Administrative Services Direct
City of Portland *

MEMBERS ABSENT:
Joe Windell
City Administrator
Lebanon

OTHERS PRESENT
Maggie Conley - Meeting Facilitator (DEQ)
Dave Neitling - Recorder (DEQ)
Martin Loring - DEQ representative
Kathryn Danley - Minute taker

I. Introduction

The initial State Revolving Fund Task Force meeting was called to order by Maggie Conley.

Maggie Conley explained that this Task Force had been developed to assist the Department in developing SRF rule amendments. Draft rules amendments were distributed to the Task Force before the meeting. She explained that these were intended to provide a beginning for Task Force discussion and that the Department is open to the Task Force input on these amendments.

In order for the rule amendments to be adopted in time to affect this year's funding cycle, the Task Force must complete its work by April 16, 1990, in the three scheduled meetings. The Department, however, is willing to provide more meetings after April 16 if the Task Force feels that the rule amendments do not need to affect this year's funding cycle. She also explained that the Department plans to reconvene the Task Force or create a new Task Force to address interest rates and other financing issues in the fall of 1990.

II. Presentation of Issues

Martin Loring provided background on the State Revolving Fund program and the Task Force role. Martin Loring then set out the following issue areas which the Department has identified as needing discussion. They are as follows:

1. Collector Sewers, major sewer rehabilitation, CSO correction, storm water control.
2. Reserves for medium sized communities.
3. Financial need.
4. Pollution problem points. Does the present system punish communities that did well and reward communities with violations?
5. Receiving water body sensitivity points.
6. Rollover of interim/construction loans.
7. Cost increases should the 10% limit be reduced to 5%? Should increases have first call on the next year's funds?
8. Responsibility for Environmental review.
9. Alternative loans.
10. Mechanics of priority system.

Maggie Conley, then asked the Task Force to identify other issues they found missing from the DEQ list. The Task Force identified the following issues to add to the above list:

11. Security requirements and reserves (Dan Helmick)
12. Interest rate change (Steve Anderson)
13. Size of project - Funding of major projects. Consider changing the 25% cap on project size. (Kathy Schacht)
14. Limit DEQ construction oversight on projects. (Dan Helmick)

15. Application process - Provide an easier process for certain types of loans (Greg DiLoreto)
16. Philosophy of SRF (Dave Gooley)
17. Water Quality points for health hazard annexation (Kathy Schacht)
18. Public review of priority ranking system in rules and Clean Water Strategy (Dan Helmick, Terry Smith)
19. Funding growth (Kathy Schacht)

III Task Force Objective

Maggie Conley, presented the Department's recommendation for the Task Force objective as follows:

> "To refine the method of equitably distributing SRF loans to all sizes of communities and to all eligible project types, while providing the greatest water quality protection."

The Task Force changed the objective to read as follows:

1. Make loans which will provide the greatest water quality protection.
2. Establish security provisions linked to future SRF buying power.
3. Maintain reasonable expectations of equitable distribution of SRF monies.
4. Streamline process.

As part of the discussion of objectives the Task Force asked to discuss DEQ philosophy with respect to the SRF program. Dave Gooley and Greg DiLoreto stated that they felt the SRF program should focus on water quality and not be operated the same as a bank with excessive security requirements.

Martin Loring responded that the Department has two goals which work together. The first goal is protecting water quality; the second is protecting future SRF buying power by having adequate underwriting and security requirements. Without adequate security requirements, he said, there might be no guarantee of future SRF loan payback, therefore, less ability to protect water quality due to the limited SRF funds available.

Dan Helmick stated that he believed that communities would repay the loan without security requirements in order to protect their bond rating and future ability to get loans.

Jon Jalali stated that he believed the federal government will continue to fund the SRF beyond 1994, so there will be future funds to finance water quality problems.

IV Prioritizing Issues

The Task Force decided to try to address all of the issues listed in A. and B. below during the 3 scheduled meetings.

A. The following issues were addressed first because they are related:

1. Collectors, major sewer rehabilitation, CSO correction, storm water control.
2. Reserves for medium sized communities.
4. Water pollution problem points.
5. Receiving waterbody sensitivity points.
13. Should the 25% cap be changed?
18. Water pollution problem points for health hazard annexation.
19. Public review of priority ranking system and clean water strategy.

B. The Task Force decided to address the remaining issues in the following order (Except as noted in C. and D. below):

7. Review limits on loan increases.
11. Security requirements, reserves, and ability to repay.
8. Responsibility for environmental review.
15. Application process should be simpler different types of loans.
20. Funding growth.

C. The Task Force decided to accept changes recommended by the Department on the following issues:

6. Rollover of interim/construction loans.
9. Alternative loans.
10. Mechanics of priority system.

D. Consideration of the following issues was deferred until next fall when the task force will reconvene or a new task force will be created:

3. Financial need.
17. Interest rates on SRF loans.
19. DEQ oversight on projects.

V Discussion of Priority Ranking Related Issues

The Task Force brain stormed solutions to some of the issues which were grouped together under A. above. Opinions of each Task Force member are summarized below:

TERRY SMITH

#1 Rank projects by type. Rank STPs, interceptors, etc. high and rank collectors low. Rank collectors on a per capita basis.
#2 No medium size community reserve-retain existing small community reserve.
#4 Health hazards should be ranked highest.
#5 No comment.
#13 Reduce the 25% cap. Fund all treatment and water projects on a per capita basis.
#18 Rank health hazard above other water quality problems.

GREG DILORETO

#1 Water quality protection number one priority. No collector money limit.
#2 No medium size community reserve. Revisit existing 15% small community reserve.
#4 No comment.
#5 No comment.
#13 Consider reducing the 25% cap.
#18 No comment.

DAVE GOOLEY

#1 No limit on funding for collectors. Provide funding to projects with the greatest WQ need, regardless of project type. Intent of new federal legislation was to allow unlimited funding for collectors.
#2 No medium size community reserve. Retain present reserves.
#4 Leave as is.
#5 Leave as is.
#13 Retain 25% cap.
#18 Health hazards should have top points.

B.J. SMITH

#1 Consider ranking collectors lower. Concerned about private financial benefit of collectors.
#2 No medium sized community reserve. Leave as is.
#4 No comment.
#5 Concerned about sensitivity points.
#13 No comment.
#18 Stress health hazard funding.

B.J.Smith requested that the Department explain how it affects certain communities such as small cities on big rivers.

STEVE ANDERSON

#1 Don't fund collectors or keep it low.

#2 No medium size community reserve, consider reducing small community reserve.
#4 Leave as is.
#5 Go with recommended changes on sensitivity.
#13 Reduce 25% cap.
#18 Rank health hazards high.

JON JALALI

#1 Use funds where there is pollution-no limit on collectors.
#2 No medium size community reserve. Retain present small communities reserve.
#4 Accept DEQ rule on water quality problem.
#5 Leave as is.
#13 Feels 25% cap too high -- reduce to 20%.
#18 Health hazard should rank high.

KATHY SCHACHT
#1 Limit collectors-possibly 20% until other needs are met.
#2 No medium size community reserve. Retain small community reserve at 15%.
#4 Definition of water quality problems needs clarification.
#5 Same as #4
#13 Retain 25% CAP.
#18 No comment.

Kathy Schacht, also, asked for an explanation of how the clean water strategy ranks health hazards.

ANN CULBERTSON

#1 Fund all types of projects with no limit.
#2 Revise small community reserve for 12,500 population and increase crease size of small community reserve to 20%.
#4 Maximum points for water quality pollution.?
#5 Accept DEQ proposed sensitivity points.
#13 Retain 25% cap on loans.
#18 Provide the most points for health hazards.

KELLY FISH

#1 Would like restrictions on collectors. Give lower priority.
#2 Retain reserve for small communities. Increase it from 15% to 25%. Consider increasing the maximum population of communities which may be funded under the reserve.
#4 Accept DEQ draft rules.
#5 Leave as is.
#13 Reduce 25% cap to 15 or 20%.
#18 Maximum points for health hazard areas.

DAN HELMICK

#1 Collectors should have a project or loan cap of about 15%.
#2 No medium size reserve-retain 15% small community reserve.
#4 Reduce problem points. No points for enforcement actions.

#5 No water quality points for enforcement-require documented water quality problem to be eligible.
#13 Reduce 25% cap to 10%.
#18 No points for health hazards.

VI Discussion of Loan Increase Issue

Current SRF rules limit the amount of loan increases which do not have to get DEQ approval to 10% loan of the original loan amount. Staff explained that proposed rules would change this limit to 5%. There would continue be no limit on the overall amount of loan increases allowable. The 5% limit was chosen because it would mirror the 5% contingency the Department would like to add to all projects listed on the on the annual funding list. This 5% contingency would provide a simple means of funding SRF loan amendments. Otherwise, they would get funded from future years funding or loan repayments.

Decision: The Task Force concluded that for now it is more appropriate to keep the 10% limit on loan increases that do not need Department approval since no loans have yet been made and this is not yet a problem. This issue could be revised in the future if necessary.

VI Followup

The Department agreed to distribute the meeting summary within one week of the meeting. The Department also agreed to make a presentation at the next meeting regarding how the Clean Water Strategy is developed.

The SRF Task Force meeting was adjourned at 3:30 p.m..

wp\dog

STATE REVOLVING FUND TASK FORCE

MEETING SUMMARY
APRIL 4, 1990
9:00 AM TO 2:00 PM
DEQ HEADQUARTERS - ROOM 10A

MEMBERS PRESENT:

Terry Smith
Deputy Director of Public Works
Eugene

Greg DiLoreto
City Engineer
Gresham

Steve Anderson
Anderson & Perry Engineers
La Grande

Jon Jalali
Finance Director
Medford

Kathy Schacht
Metropolitan Waste Management
Commission
Springfield

Dan Helmick
Director of Fiscal Services
Clackamas County

B.J. Smith
League of Oregon Cities
Salem

Ann Culbertson
Grants Coordinator
Unified Sewerage Agency
Washington County

Dave Gooley
Administrative Services Director
City of Portland

Joseph Windell
City Administrator
Lebanon

MEMBERS ABSENT:

Kelly Fish
Public Representative
North Albany

OTHERS PRESENT:
Maggie Conley - Meeting Facilitator (DEQ)
Dave Neitling - Recorder (DEQ)
Martin Loring - DEQ representative
Donna Dluehosh - North Albany (for Kelly Fish)
Willie Olandria - EPA
Lucinda Bidleman - Speaker on Ground Water Sensitivity Points
Neil Mullane - Speaker on Surface Water Sensitivity Points
Susan Black - Minute taker

I. INTRODUCTION

The Oregon Department of Environmental Quality (DEQ) developed the State Revolving Loan Fund (SRF) in 1989 to provide financing to protect water quality as Congress is phasing out the grant program. The Task Force held its second meeting April 4, 1990 to assist the Department in developing SRF rule amendments.

The State Revolving Fund Task Force meeting was called to order by Maggie Conley. Maggie Conley reminded the task force that at its last meeting the Task Force agreed that its objectives included trying to reach a reasonable expectation of equitable distribution of SRF money and protection of water quality.

II. SECURITY REQUIREMENTS AND RESERVES

Issue: Should the rules be amended to reduce the SRF loan security requirements?

Martin Loring introduced the topic of security requirements and reserves by identifying two related issues: underwriting (how much credit risk will be taken on), and security provisions or collateral (what security is pledged as a secondary source of repayment). At the last meeting, Task Force members stated that there is concern about security requirements interfering with the ability to solve water quality problems of the state due to the financial burden they impose. Martin Loring stated that it was Congress's clear intent in the Clean Water Act to create a perpetual fund. EPA and other agencies will audit the fund for the riskiness of the loan portfolio and procedures. The fund's buying power needs to be maintained in order to provide future financing for water quality needs. The original SRF rules provided three ways for a community to receive funding, each with different security provisions. A community could sell to DEQ:

- general obligation bonds secured by sewer rate revenue and property taxes

- rated revenue bonds secured with sewer rate revenue and whatever coverage and reserve requirements that are needed to achieve a given rating, and

- revenue secured debt secured by sewer rate revenue plus coverage reserve requirements set out in rule.

Temporary rule amendments adopted in December,1989 created a fourth way to borrow, which is any other debt proposal with comparable security.

The topic of reserve requirements and the option for communities to fund reserves out of loan proceeds was discussed. There was a

concern expressed that this would reduce the SRF funds going to water quality improvement.

Task Force discussion included the following:

A. The DEQ's staff position was that the security provisions of the fund should not be weakened. The importance of stewardship responsibilities was stressed.

B. Various Task Force members pointed out that communities default very rarely. Due to this low risk, security requirements should be reduced.

C. Reserves are expensive and do not prevent default. A coverage factor of 5-20% in excess of operations maintenance and debt service provisions would be reasonable with no reserve required. Credit worthiness should be substitutable for reserve requirements. A credit rating system for communities predicting the riskiness of specific debt issues would be useful.
D. Requiring coverage is a tool to encourage service of debt and self support. The reserve requirement should be met though general fund balances because may not be desirable to create a reserve from SRF funds when sufficient funds are already being held.

E. Security requirements should be minimized since DEQ could always take over operation and rate setting if a borrower goes into default. A Task Force member suggested that DEQ is trying to avoid political heat by the use of coverage and reserves.

F. Reserves are more a small community issue, but it is too early to tell if they prevent affordability of loans.

G. The Task Force recommended that page 71 (b) of the draft rule amendments be redrafted to address flexibility in reserve and security requirements.

To summarize, the Task Force recommended that the security and reserve requirements need to provide flexibility for differences in community size, funding methods, and credit worthiness. Use of credit ratings to eliminate the reserve requirement or funding reserves though general fund balances might stretch water quality improvement dollars further. The Department agreed to consider these comments and respond at the next meeting.

III. RECEIVING WATERBODY SENSITIVITY POINTS

Issue: Should the method for prioritizing SRF projects based on Water Quality impacts be revised to reflect new ground water rules and the Clean Water Act?

A. GROUND WATER - Lucinda Bidleman

DEQ's Clean Water Strategy rating system is recommended for use in rating the sensitivity (to pollution) of surface water bodies, but, unfortunately, ground water issues are not dealt with in that document.

The proposed rules provide the following:

-90 points for sole source aquifers. This is a formal designation made by the EPA where fifty percent or more of the drinking water is supplied by the aquifer. There is only one designated sole source aquifer presently in Oregon, in North Florence.

-70 points for Wellhead Protection Areas. This is a delineated area which recharges one (or more) wells.

-50 points for discharges from an existing facility which are causing contamination above background, but less than the standard or within a Ground Water Management Area. Trigger levels (for designation as a Ground Water Management Area) are for Non-Nitrates with standards 50% of standard or more, and for Nitrates 7/89 to 7/90 100% or more of standard and after 7/90 70% of standard.

-30 points if DEQ suspects contamination but there is no direct evidence to support this suspicion. (e.g. a lagoon which is leaking but for which no monitoring has been done).

-10 points for an area were there is a potential for contamination that could exist or develop (e.g. an unlined lagoon)

The Task Force raised the following concerns:

1. There is a need for a level of specificity for how points are assigned to each site.

2. Sampling procedures and methods for monitoring sites are needed.

3. Site specific requirements do not exist.

4. Need for public input

B. SURFACE WATER - Neil Mullane

Congress, believing states should prioritize water quality problems, developed the Clean Water Strategy. Public hearings help identify important beneficial uses and put a value on them.

This allows resources to be targeted to high priority problems. In the Oregon Clean Water Strategy, health, recreation, and aquatic life are evaluated for problem severity and value to get a total water quality score used to prioritize surface water sources. The value of a stream was based on how it is presently being used. Aquatic habitat was used as a tie-breaking factor (but not included in the SRF sensitivity ranking). The ranking was based on in-state segments and therefore did not include the Columbia, and Snake Rivers, or the ocean. This is the first year of implementing the ranking method in the Clean Water Act and it is thought to work quite well.

The Task Force identified the following Concerns with the Clean Water Strategy:

1. Higher points would tend to go to well documented problems.

2. Those communities with financial resources to document problems will be the ones that get higher priority.

3. Health is reflected only in drinking and shellfish standards.

4. Non-Point source areas can be prioritized well because of documentation.

5. There should be a process for applicants to appeal their rankings.

In summary, the Task Force agreed to the draft rule proposal for prioritizing ground water and surface water problems. The Task Force recommended:

(1) A minimum number sensitivity points should be given even if a stream is not listed in the Clean Water Strategy.

(2) The Department needs to develop procedures for documenting water quality problems and updating the Clean Water Strategy.

IV. WATER POLLUTION PROBLEM POINTS; HEALTH HAZARD ANNEXATIONS

Issue: Should DEQ continue to assign priority points based on enforcement status and noncompliance?

The Task Force made the following suggestions for rule changes related to problem points:

A. The title "Water Quality Problem Points" needs to be changed to "Enforcement/Water Quality Violation".

B. Communities not doing a good job of complying should not be rewarded by getting more points for enforcement actions. Few communities, however, are purposely remiss in water quality compliance.

C. Health hazards which do not affect water quality should be ranked lower.

The Task Force agreed to:
1. Delete priority points for financial capability based on median household income. This should be discussed in the fall when the Task Force reconvenes to discuss interest rates and other financial issues.

2. Continue to provide more points for larger communities because they will likely have greater water quality impact.

3. The Department should require more than one Notice of Violation (NOV) in order to receive Water Quality Problem Points.

V. PUBLIC REVIEW OF PRIORITY LIST

Issue: Do the draft rules provide adequate opportunity for public review?

The idea of a two tiered public review of the priority list has been changed to a one tier review, giving one public review opportunity for projects.

The Task Force recommended that:

A. The fifteen day review period be raised to thirty days for public comment.

B. A new planning and fundable list should be completed each year. Projects on the planning list would have to reapply the next year. This would assure that the lists are current and perhaps limit schedule "slippage". A first in, first out process of using the oldest money first with frequently updated lists may help to avoid delays and reduce the likelihood that funds to Oregon would be lost.

VI. COLLECTORS, MAJOR SEWER REHABILITATION, CSO CORRECTION, STORM WATER CONTROL

Issue: Should a limit be placed on the amount of SRF monies made available for collectors, major sewer rehabilitation, CSO

correction, and storm water control (i.e. Governor's Discretionary Fund projects)?

Previously the Federal Clean Water Act limited SRF monies that can be spent on Governor's Discretionary Fund projects to one third of the fund (capitalization grant plus state match). This requirement was changed in the 1990 EPA appropriation bill. As such, it affects only FFY 1990 funds. It is the DEQ's recommendation that these types of projects be funded as necessary to address water quality problems. It is unknown which jurisdictions this would affect.

The Task Force discussed the following issues related to funding these types of projects:
A. The state should have the flexibility and authority to address water quality problems without limiting the amount of funding for these types of projects. Collectors, major sewer rehabilitation, CSO correction, and storm water control projects should be funded based on priority ranking like any other project. Water quality improvements ought to dictate whether these projects get more money than interceptors or other projects.

B. Terry Smith suggested that we could rank collectors lower than interceptors and STP's and allocate funds to collector projects with the same ranking on a per capita basis.

C. Another possibility would be to determine which communities should get collector funds by combining financial need with water quality needs to avoid inappropriate benefits to communities which can afford to pay for collectors.

Task Force Conclusion: Place no limits on funding for collectors, major sewer rehabilitation, CSO correction, and storm water control projects.

VII. RESERVES FOR MEDIUM SIZED COMMUNITIES

Issue: Should there be a reserve for medium sized communities or should the population limit on the small community reserve be increased or the amount of money reserved be changed?

The current rules reserve 15 percent of available SRF money for small communities with a population of 5,000 or less. Draft rule amendments increase the reserve to 25 percent and increase the population to 20,000 or less.

The Task Force discussed the following related issues:

A. Joe Windell stated that a community of 10,000 is much more financially capable of funding projects than a community of 5,000

people. Therefore, there needs to be a reserve for small communities but not for medium sized communities.

B. Most members felt that it is important to keep the small community reserve where it is now and adjust it later when there is more experience to show how equitable the results are.

C. The idea of reducing the 15 percent to 10 percent to avoid over-benefitting lower ranked small communities was discussed.
D. It was suggested that staff should develop an equation to limit the use of the small community reserve so that funds do not go to low ranked projects.

E. To avoid problem of low ranked small communities getting funds, raise the population for the reserve to fifteen thousand.

F. There is a danger in putting too much weight on priority ranking since small community problems could actually be worse than their ranking indicates due to their financial inability to do monitoring and collect data which could increase their ranking.

Note: This topic will be discussed more at the next task force meeting.

VIII. SUMMARY AND FUTURE MEETING TOPICS TO ADDRESS

The meeting adjourned at 2:30 pm having not covered two scheduled topics: the 25 percent cap, and environmental review/EIS responsibilities. Topics in addition to those not covered April 4 to address in the next meeting if time permits include:

A. Growth

B. Simplifying the application process

C. Alternative Loans

D. Alternative to the coverage and reserve requirements

The next meeting is scheduled for April 16, 1990 at 9:00 am in the EPA conference room.

wp\april4

STATE REVOLVING FUND Task Force

MEETING SUMMARY
APRIL 16, 1990
9:00 AM TO 2:00 PM

DEQ HEADQUARTERS - EPA CONFERENCE ROOM 3A

MEMBERS PRESENT:

Greg DiLoreto
City Engineer
Gresham

Dan Helmick
Director of Fiscal Services
Clackamas County

Ann Culbertson
Grants Coordinator
Unified Sewerage Agency
Washington County

Dave Gooley
Admin.Services Director
City of Portland

Steve Anderson
Anderson & Perry Engineers
La Grande

Kelly Fish
North Albany
Public Representative

B.J. Smith
League of Oregon Cities
Salem

Joseph Windell
City Administrator
Lebanon

MEMBERS ABSENT:

Terry Smith
Deputy Director of Public Works
Eugene

Kathy Schacht
MWMC
Springfield

Jon Jalali
Finance Director
Medford

OTHERS PRESENT:
Maggie Conley - Meeting Facilitator
Martin Loring - DEQ Representative
Willie Olandria - EPA
Karen D'Eagle - Minute Taker

CG\WC6518 (5/3/90)

I. INTRODUCTION

The Task Force held its third meeting April 16, 1990 to assist the Department in developing SRF rule amendments. The State Revolving Fund Task Force meeting was called to order by Maggie Conley.

II. MEDIUM SIZED COMMUNITY RESERVE

Issue: Should there be a reserve for medium-sized communities?

The Department recommendation was to increase the size of the reserve from 15% to 25% of the SRF and increase the maximum population eligible for the small community reserve to 20,000. The Task Force discussed problems which could result from increasing the small community reserve to include medium sized communities. These included:

-- potential unfairness to small communities which would have to compete with larger, more financially capable communities,for funding.

-- the large number of communities this reserve could fund (43 cities, plus an unknown number of service districts).

Other options considered included a separate medium sized community reserve for communities with a population of 5,000 to 20,000. The Task Force decided that this would not be necessary.

Recommendation: The Task Force decided not to expend reserves beyond the current 15% for communities of 5,000 or less. It was concluded that larger communities could compete and that if a problem develops later, it can be fixed then.

The Task Force also discussed a small community reserve concern that low-ranked small communities would get funding at the expense of larger communities with more severe water quality problems.

Recommendation: Allow small communities to get reserve funding only if they have at least 30 enforcement\water quality violation points.

III. 25 PERCENT CAP

Issue: Should the cap on the amount of loan funds that any one community may use in any one year be reduced from 25%?

The Task Force discussed the interrelationships among allowing unlimited funding of collectors, maintaining the small community reserve with a ceiling population of 5,000, and the size of the cap. In order to ensure that a reasonable number of projects receive funding, the Task Force decided that the cap should be lowered.

They discussed whether a 15% or 20% cap was more appropriate and decided that it needed to be as low as possible without prohibiting most projects from being completely funded by SRF.

Recommendation: Reduce the cap to 15%.

IV. ENVIRONMENTAL REVIEW and EIS RESPONSIBILITIES

Issue: Should the responsibility for environmental review be shifted from the Department to the borrower?

Martin Loring reminded the Task Force that the main reason for this shift would be to save the Department administrative costs. Due to the strict Federal limit on SRF administrative spending, the Department expects a shortage in funds for program administration and needs to save whenever possible. He also explained that the borrowers could borrow SRF monies to pay for the cost of preparing environmental assessments and EISs.

Ann Culbertson pointed out the burden that this could place on small communities even if they are allowed to borrow SRF monies to pay for the environmental review costs. She passed out flow charts showing how the responsibilities would shift. The Department responded that the costs should not be substantially greater for preparation of environmental assessments since most of information is already required in the facility plan. Also the chances of having to prepare an EIS are slim -- there have only been two EISs required on construction grant projects in the last 16 years.

The Department also indicated that some simplification of the EA process could take place since the state is the approving agency, rather than EPA.

Recommendations:

a) Shift responsibility for environmental review to the borrower with SRF loans to cover these costs.

b) Include a chapter in the SRF Procedures Manual explaining simply how to prepare an environmental assessment and an EIS.

c) Provide staff to assist small community in environmental review.

d) Get more administrative funds by:

-- Getting authority from the federal governmental to spend more SRF on program administration.
-- Seeking additional funding from the State.
-- Leveraging SRF administrative funds (to be discussed more at future SRF Task Force meetings).
-- Charging loan fees.

e) Require DEQ to pay for EIS preparation if no project follows.

f) Provide workshops to train consultants and borrowers in how to prepare environmental assessments and EISs.

V. SIMPLIFY APPLICATION PROCESS

Greg Diloreto suggested changing the application process so that borrowers for phased projects would not be required to submit new loan documentation each year to comply with facility planning and environmental review requirements.

The Department explained that it intended to be as reasonable as possible in this regard, but that it was limited by EPA in how much it could simplify the environmental review requirements.

Recommendation: Add rule language which allows a borrower, with the Department's approval, to submit a facility plan at the beginning of a project which could be used until the project is completed.

VI. GROWTH

The Task Force decided that funding of growth unrelated to a water quality problem was not consistent with the Task Force objectives of protecting water quality.

VII. OTHER ISSUES

Steve Anderson suggested that communities should be required to increase user fees immediately upon completion of a facility plan in order to begin raising project funds. The Task Force decided to address this issue later. Other financing issues proposed for consideration in the Fall of 1990 include:

- -- Financial need
- -- Interest rates
- -- DEQ project oversight
- -- Commencement of repayment before project is completed
- -- Loan fees
- -- Fund leveraging
- -- Repayment of small loans in less than 20 years
- -- Require user rates to be increased upon completion of the facility plan (consider a separate Task Force rates)
- -- Need for a state grant program.

VIII. ISSUES AND RECOMMENDATIONS SUMMARY

The attached chart summarizes the main issues addressed by the Task Force, the Task Force recommendations, and the Department's responses to these recommendations.

The Task Force meeting was adjourned at 2:15 p.m..

SUMMARY

SRF Task Force Recommendations

For

Proposed SRF Rule Amendments

	ISSUES	TASK FORCE RECOMMENDS	DEQ RESPONSE
1.	Collectors, etc.	No funding limit for Collectors and other governor's Discretionary Fund projects.	Agree
2.	Water pollution problem points.	Change title of section to "Enforcement/Violation Points".	Agree
3.	Receiving water body sensitivity.	Follow DEQ recommendations.	Agree
		Establish guidelines for how to document Water Quality problems.	In progress.
		Add one (1) point for unlisted stream segments.	
4.	Points for Health Hazard Annexation.	Follow DEQ recommendations.	Agree
5.	Public review of priority ranking system and Clean Water Strategy.	OK - but consider expanding.	Under review.
6.	Limits on loan increases.	Keep as is in original rules.	Agree
7.	Security requirements, reserves.	Follow DEQ recommendations. Individualize security/reserve requirements.	Agree

CG\WC6518 (5/3/90)

SUMMARY Cont'd

	ISSUES	TASK FORCE RECOMMENDS	DEQ RESPONSE
8.	Medium size community reserve.	None.	Agree
9.	25% Cap on loans.	15% Cap.	Agree
10.	Environmental review/environmental impact statement responsibility.	1. Prepare a Handbook. 2. DEQ pay for EIS if no project. 3. Consolidate EA into facility plan.	Agree
11.	Growth.	No (Reserve capacity OK).	Agree
12.	Simplify application process.	Accept old facility plan findings for phased project.	Agree
13.	Financial capability points.	Address later.	Agree

SUPPLEMENTAL DEPARTMENT REPORT

SIX STATUTORY FACTORS EQC MUST CONSIDER

Background

In 1987, the Clean Water Act was amended to phase out the Construction Grants Program and replace it with the State revolving fund (SRF). The Construction Grants Program has provided grants for sewage treatment facility planning design and operation since 1972. Under the SRF, the federal government will offer capitalization grants through 1994 in order to allow each state to establish a SRF.

In 1987, the Oregon legislature adopted legislation (ORS 468.423 - 468.440, Attachment B) authorizing development of a State Revolving Fund Program. The purpose of the program is to provide an ongoing source of financing for planning, design and construction of water pollution control facilities. In order to implement the State Revolving Fund legislation and to comply with federal SRF legislation, the Department is proposing adoption of the attached rule amendments (Attachment A).

Issues, Alternatives, and Evaluation

Under state statutory requirements, the Environmental Quality Commission is required to "establish by rule, policies for establishing loan terms and interest rates" (ORS 468.440). In establishing the policy, the Commission must consider the following factors:

1. The capability of the project to enhance or protect water quality.

   The proposed amendments to the SRF priority system will continue to protect and enhance water quality in the state. The priority system considers the capability and need for the project to enhance or protect water quality by providing a higher ranking for projects with greater water quality impacts as reflected by DEQ or EQC enforcement actions, regulatory standards, health hazards, population size and waterbody sensitivity to pollution (OAR 340-54-025).

2. The ability of a public agency to repay a loan. In developing the proposed rule amendments, the Department weighed the value of requiring communities to provide a substantial amount of security to assure loan repayment against the value of allowing a minimal amount of security in order to make SRF funds available to more communities. The Department believes the proposed rule amendments provide a middle ground where a reasonable amount of security is required which is within the means of most communities.

   The proposed rule amendments allows the Department to make "alternative loans" to public agencies which provide loan security that is different but substantially equivalent to the security required for other types of loans allowed by the rules. This change would give the Department the ability to make loans to communities which are unable to provide exactly the type of security which the rules currently require but which can provide other types of equivalent security.

3. Current market rates of interest. No change in interest rates is proposed at this time. The Department will re-evaluate interest rates and return to the Commission with recommendations by September 1991.

4. The size of the community or district to be served by the treatment works.

   The proposed rule amendments address the size of the community or district to be served in several ways.

   First, the proposed rule amendments retain the small community reserve. The amendments, however, limit funding from the small community reserve to projects which receive at least 30 enforcement\water quality violation points on the SRF priority list. The intent of this amendment is to ensure that small community reserve funds are loaned to small communities with existing documented water quality problems rather than potential problems. This amendment will avoid the possibility of small community reserve funds going to potential or undocumented water quality problems, thereby preventing funding of a more serious documented water quality problem in a larger community. This amendment is consistent with Finding Number 1 above.

   Second, the proposed rule amendments reduce the maximum amoun that a community may borrow each year from 25% to 15% of the SRF. This change will make funds available to a greater number of communities. This will probably result in more funding for mid-sized and small communities.

5. The type of projects financed. The Department proposes to provide funding for all of the types of projects which the state is allowed to fund under the federal legislation and spending authorization for the first use of funds (OAR 340-54-015(1)). This includes providing unlimited funds for collectors.

When the current SRF rules were adopted in March 1989, the Federal Clean Water Act limited funding of collectors to 33% of the SRF each year. Congress eliminated this limit on collector spending in the 1990 appropriations bill. Though this bill only affects the 1990 SRF capitalization grant, it is likely that the Clean Water Act will be amended to permanently eliminate this collector limitation. In response, the SRF Task Force discussed whether Oregon should limit funding for collector projects. The task force recommendation was to place no limit on collector funding since this type of project may be the only solution to serious water quality problems and may be a need for which the community was unable to plan . Therefore, the proposed rule amendments include no proposed limits on spending for collectors.

6. The ability fo the applicant to borrow elsewhere. No changes to the rules are proposed with regard to this factor.

NEIL GOLDSCHMIDT
GOVERNOR

Environmental Quality Commission

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

REQUEST FOR EQC ACTION

Meeting Date: May 25, 1990
Agenda Item: D-2
Division: Water Quality
Section: Surface Water

SUBJECT:

Adoption of emergency rules to change the effective date of on-site stormwater control rules in the Tualatin Basin.

PURPOSE:

To synchronize the effective date of the on-site stormwater rules with the needs of those agencies implementing Tualatin River and Oswego Lake subbasin water quality management plans.

ACTION REQUESTED:

___ Work Session Discussion
___ General Program Background
___ Potential Strategy, Policy, or Rules
___ Agenda Item ___ for Current Meeting
___ Other: (specify)

___ Authorize Rulemaking Hearing
_X_ Amend Rules
Proposed Rule Amendments — Attachment A
Statement of Need and Emergency Justification Statement for Temporary Rule Filing — Attachment B
Fiscal and Economic Impact Statement — Attachment ___
Public Notice — Attachment ___

___ Issue a Contested Case Order
___ Approve a Stipulated Order
___ Enter an Order
Proposed Order — Attachment ___

___ Approve Department Recommendation
___ Variance Request — Attachment ___
___ Exception to Rule — Attachment ___
___ Informational Report — Attachment ___
___ Other: — Attachment ___

DESCRIPTION OF REQUESTED ACTION:

Amend OAR 340-41-455(3)(d)(A) to change the effective date of the rules from June 1, 1990 to July 1, 1990 (see language in Attachment A).

AUTHORITY/NEED FOR ACTION:

___ Required by Statute: _____ Attachment ___
Enactment Date: _____
___ Statutory Authority: _____ Attachment ___
___ Pursuant to Rule: _____ Attachment ___
___ Pursuant to Federal Law/Rule: _____ Attachment ___

_X_ Other: The Commission may address changes to its rules as necessary (ORS 183.335(5)).

_X_ Time Constraints:

A change of the date in OAR 340-41-455, if desirable, must be made before June 1, 1990.

DEVELOPMENTAL BACKGROUND:

___ Advisory Committee Report/Recommendation Attachment ___
___ Hearing Officer's Report/Recommendations Attachment ___
___ Response to Testimony/Comments Attachment ___
_X_ Prior EQC Agenda Items:

Item "K" (and attachments), EQC meeting of December 1, 1989. This staff report presented the stormwater rules for adoption.

___ Other Related Reports/Rules/Statutes:
Attachment ___
___ Supplemental Background Information Attachment ___

REGULATED/AFFECTED COMMUNITY CONSTRAINTS/CONSIDERATIONS:

As the rule currently reads, jurisdictions in the Tualatin Basin need to adopt stormwater control ordinances by June 1, 1990 which are compatible with DEQ's temporary rules (OAR 340-41-455(3)(d,e,f,g)). The Unified Sewerage Agency has stated its intention to adopt its own equivalent rules at the beginning of its new fiscal year on July 1, 1990. The proposed amendment will cause the rule to go into effect on the same date that the Unified Sewerage Agency (USA) assumes its authority to function as a stormwater control district. Without a change in or an amendment to the rule, political jurisdictions within the USA district would have to pass their own temporary ordinances to cover the month of June. USA and its member jurisdictions feel this effort would be a waste of time and money in light of the pending USA rule adoption.

No arguments against this one month delay for USA are anticipated. However, it may be argued that the rationale for USA's extension does not apply to other Tualatin basin jurisdictions.

PROGRAM CONSIDERATIONS:

The change of effective date from June 1 to July 1, 1990 will have no effect on the Department's Critical Basins or Nonpoint Source programs. Leaving the date as it is could result in additional inquiries to the Department from local jurisdictions within USA's service district. Also, the failure of one or more of these local jurisdictions to implement stormwater ordinances for June could result in legal actions with unpredictable impacts on Department workloads.

ALTERNATIVES CONSIDERED BY THE DEPARTMENT:

1. Leave the effective date as it is (June 1, 1990) for all parties.

   This would cause significant confusion among the jurisdictions within USA's service district, and could lead to rule violations if local ordinances are not adopted. Hasty adoption of local ordinances could result in further confusion.

2. Change the effective date to July 1, 1990, for USA, but leave the effective date as it is (June 1, 1990) for all parties.

   This could cause confusion within the regulated community as to which jurisdiction was operating with which date.

3. Change the effective date to July 1, 1990, for all parties.

   This would resolve difficulties within the USA district, and would minimize confusion in other jurisdictions.

4. Change the effective date to some time beyond July 1, 1990.

   Preliminary discussions with several Tualatin agencies identified October 1, 1990 as a date preferred by them. Subsequent discussions suggest that June 30, 1993 is even more preferred by them.

DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:

Select Alternative 3 (above): Amend OAR 340-41-455(3)(d)(A) to change the effective date of the rules from June 1, 1990 to July 1, 1990 for all parties (see language in Attachment A).

The coincidence of dates resulting from the change will eliminate the need for individual jurisdictions within USA's service area to adopt stormwater ordinances for the month of June only. To simplify rule implementation, the single date should continue to apply to all other Tualatin jurisdictions as well as to USA. Also, should the Commission wish to hear arguments for moving the rule implementation date back even farther (see Alternative 4 above), this amendment will allow discussion of the issue at the June, 1990 EQC meeting without USA and other Tualatin basin agencies being in violation of the stormwater rule.

CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE POLICY:

The recommendations for action made above are consistent with existing agency and Commission plans and policies.

ISSUES FOR COMMISSION TO RESOLVE:

1. Should the effective date for the on-site stormwater rules be changed?

2. If the date should be changed, what should it be changed to?

3. If the date should be changed, should it be changed for all parties?

INTENDED FOLLOWUP ACTIONS:

The change of effective date must be made at the May EQC meeting. Following such a change, the Department will notify all affected parties.

Approved:

Section: _____

Division: Lydia Taylor

Director: Fred Hansen

Report Prepared By: Roger Wood

Phone: 229-6893

Date Prepared: May 10, 1990

RW:crw
IW\WC6560
5-10-90

ATTACHMENT A

Selection of Alternative 3 in the staff report would amend OAR 340-41-455(3)(d)(A) to read as follows (deleted language in brackets; new language underlined):

340-41-455(3)(d)(A)

Those developments with application dates prior to [June 1, 1990] July 1, 1990. The application date shall be the date on which a complete application for development approval is received by the local jurisdiction in accordance with the regulations of the local jurisdiction.

ATTACHMENT B

STATE OF OREGON
ENVIRONMENTAL QUALITY COMMISSION
811 SW 6TH AVENUE
PORTLAND, OREGON

STATEMENT OF NEED TO AMEND RULE WITHOUT PRIOR NOTICE OR HEARING

In accordance with ORS 183.335(5), the Environmental Quality Commission (EQC) makes the following findings and declarations in support of the amendment of OAR 340-41-455(3)(d)(A) relating to the effective date of on-site stormwater control rules in the Tualatin basin.

1. ORS 468.015 and 468.020 provide the EQC with the authority to establish policies, rules and standards necessary and proper in performing the functions vested by law in the Commission.

2. Failure to act promptly in this instance will result in serious prejudice to the public interest, and in particular, to the ability to comply with the current provisions of OAR 340-41-455(3)(d)(A).

3. This amendment is needed to synchronize the effective date of the rule with the effective date of the Unified Sewerage Agency's authority to function as a stormwater control district.

4. Principal documents relied upon in considering the need for the amendment were:

   a. ORS 183.335
   b. OAR 340-41-455
   c. 40 CFR 130.7
   d. Section 303(d) of the federal Water Quality Act of 1987

   These documents are available for public review at the Department of Environmental Quality, Water Quality Division, 811 SW 6th Avenue, Portland, Oregon.

NEIL GOLDSCHMIDT
GOVERNOR

Environmental Quality Commission

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

REQUEST FOR EQC ACTION

Meeting Date: May 25, 1990
Agenda Item: E
Division: Water Quality
Section: Industrial Waste

SUBJECT:

Regulation of Mining Operations Using Chemical Extraction Methods Involving Heap-Leaching or Milling

PURPOSE:

To seek policy guidance from the Commission on future regulation of mining operations.

ACTION REQUESTED:

___ Work Session Discussion
___ General Program Background
___ Potential Strategy, Policy, or Rules
___ Agenda Item ___ for Current Meeting
___ Other: (specify)

___ Authorize Rulemaking Hearing
___ Adopt Rules
Proposed Rules — Attachment ___
Rulemaking Statements — Attachment ___
Fiscal and Economic Impact Statement — Attachment ___
Public Notice — Attachment ___

___ Issue a Contested Case Order
___ Approve a Stipulated Order
___ Enter an Order
Proposed Order — Attachment ___

___ Approve Department Recommendation
___ Variance Request — Attachment ___
___ Exception to Rule — Attachment ___
___ Informational Report — Attachment ___
_X_ Other: (specify) — Attachment ___
(request for policy guidance)

DESCRIPTION OF REQUESTED ACTION:

The purpose of this agenda item is to request that the Commission provide policy guidance to the Department on the regulation of mining operations using chemical extraction methods involving heap-leaching or milling.

AUTHORITY/NEED FOR ACTION:

___ Required by Statute: _____ Attachment ___
Enactment Date: _____
___ Statutory Authority: _____ Attachment ___
___ Pursuant to Rule: _____ Attachment ___
___ Pursuant to Federal Law/Rule: _____ Attachment ___

_X_ Other: Attachment ___

___ Time Constraints: (explain)

DEVELOPMENTAL BACKGROUND:

___ Advisory Committee Report/Recommendation Attachment ___
___ Hearing Officer's Report/Recommendations Attachment ___
___ Response to Testimony/Comments Attachment ___
___ Prior EQC Agenda Items: (list)
Attachment ___
___ Other Related Reports/Rules/Statutes:
Attachment ___
_X_ Supplemental Background Information Attachment A

REGULATED/AFFECTED COMMUNITY CONSTRAINTS/CONSIDERATIONS:

Many aspects of mining that have environmental impact are regulated by agencies other than the Department. For example, land-use compatibility is determined by the local jurisdiction unless the claim is on Federal land, in which case, the federal government has jurisdiction; the Department of Geology and Mineral Industries (DOGAMI) issues the initial exploration and operating permits, regulates the mine closure and reclamation process, and requires reclamation and chemical processing bonds.

The Department's authority to regulate mining can be interpreted as being rather narrowly confined to regulation of the discharge of toxics from chemical processing of ore and from the ore itself. The authority may not extend to other aspects of mining, such as the concomitant aesthetic impacts that large-scale mining may have.

A grey area of regulation for the Department is protective measures that may be required for the environmental impact a large open pit mine may have on future groundwater quality through increasing access of surface contaminants to the potentially-exposed groundwater.

Michael Huston, Attorney General's Office, has prepared an opinion (copies will be available at the May 25 meeting) on the extent of the Department's authority to regulate mining on federal land. (Many of Oregon's proposed mines are on federal land).

PROGRAM CONSIDERATIONS AND ALTERNATIVES:

Because chemical processing of mineral ores involves wastewaters or leachable solid wastes that potentially can contaminate surfacewater and groundwater, the Water Quality Division has, in the past, assumed the lead within the Department on the regulation of mining wastes.

Mining also typically produces large quantities of solid waste materials (leached ores, mill tailings, re-located low-grade ores, etc.) that potentially threaten surface and groundwater because toxic materials can leach from them over time in much the same way as from other landfills.

The Department may now regulate some or all of these wastes as RCRA Subtitle C wastes. In 1980, Congress amended the Resource Conservation and Recovery Act (RCRA) to temporarily exclude wastes from the extraction, beneficiation (e.g., crushing and sizing), and processing of ores and lminerals from hazardous waste regulation. EPA has now withdrawn this exlusion for all but a few mining wastes.

The Department can continue to regulate both water and solid waste aspects of mining under the Department's water-quality authority because of their potential impact on surfacewater and groundwater. This regulation can be accomplished through establishment of what Oregon considers to be the "highest and best practicable" control and treatment techniques, writing of specialized rules applicable to mining, or a combination of the two.

The Department could also separately use its hazardous and solid waste authority to regulate the solid mining wastes as RCRA Subtitle C wastes, or possibly as Oregon solid wastes. Again, the Department can give special consideration to the mining industry by adopting special rules.

The Department's role in regulation of the mining industry in Oregon will receive considerable attention from citizens' groups and the mining industry, at a minimum. The Department now has an opportunity to develop its regulatory strategy free from the constraints of having to act on a specific permit request because it does not currently have a permit application in process. Several mining companies are actively preparing to submit permit requests, however, within the next few months to two years.

REQUEST TO THE COMMISSION:

In view of the large-scale nature of mining and its significant environmental impact, the Department solicits direction from the Commission on how it feels the Department might best regulate the industry.

INTENDED FOLLOWUP ACTIONS:

The Department will return to the Commission with more detailed information on regulation of mining, if so requested. The Department will also return with a request for rulemaking or a recommendation for "highest and best practicable treatment" methods, if the Commission feels that this is desireable.

Approved:

Section: _____

Division: _____

Director: _____

Report Prepared By:

Phone:

Date Prepared:

JET:crw
IW\WC6555
May 9, 1990

Attachment A

Technical Processes for Control of Cyanide Residuals

The following are some technical processes that can be required of a permittee to reduce the environmental threat of cyanide residuals produced by metal extraction from ores, using heapleaching and milling processes.

All add cost to the mining process. Some are relatively unproven as yet, and some are more effective than others, depending on the site-specific nature of the ore and the process.

What constitutes "highest and best practicable treatment" could range from combinations of any or all of these control processes.

PREVENTION/MONITORING OF CYANIDE SOLUTION LEAKS FROM IMPOUNDMENTS

Double or triple composite liners under leached ore, wastes
Between-liner leak detection to trigger leak repair
Impoundment partitioning to facilitate leak repair
Groundwater, vadose monitoring to detect cyanide in soil
Restriction on solution depths in impoundments

DETOXIFICATION OF CYANIDE PROCESSING SOLUTION RESIDUALS

Rinsing of leached ore piles with clean water
Cyanide extraction from mill tails by de-watering
Cyanide oxidation by chlorine, hydrogen peroxide, sulfur dioxide

RECOVERY AND RE-USE OF CYANIDE

Release and recovery of hydrogen cyanide by acidification

PREVENTION OF LONG-TERM ACID-WATER GENERATION BY WASTES

Addition of limestone to neutralize acid water from oxidized sulfides

WILDLIFE PROTECTION

Exclusion of birds by covering toxic ponds with netting
Exclusion of animals by fencing
Restricting toxicity of open ponds to "safe" levels
Requiring use of drip nozzles instead of spray nozzles on heaps

JET:crw
IW\WC6559
5/10/90

NEIL GOLDSCHMIDT
GOVERNOR

Environmental Quality Commission

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REQUEST FOR EQC ACTION

Meeting Date: May 25, 1990
Agenda Item: F
Division: Air Quality
Section: Planning & Development

SUBJECT:

Emission Exceedances: New Rules to Regulate Emission Exceedances due to Startup, Shutdown, or Malfunction Conditions

PURPOSE:

To bring state rules into conformance with current federal enforcement policy regarding the emission of air contaminants that are in excess of regulatory limits or permit conditions, and to provide a more streamlined process for documenting and evaluating whether excess emissions due to startup, shutdown, scheduled maintenance and breakdowns should be subject to enforcement action.

ACTION REQUESTED:

___ Work Session Discussion
- ___ General Program Background
- ___ Potential Strategy, Policy, or Rules
- ___ Agenda Item ___ for Current Meeting
- ___ Other: (specify)

___ Authorize Rulemaking Hearing
_X_ Adopt Rules

Proposed Rules	Attachment B
Rulemaking Statements	Attachment D
Fiscal and Economic Impact Statement	Attachment D
Public Notice	Attachment E

___ Issue Contested Case Order
___ Approve a Stipulated Order
___ Enter an Order
- Proposed Order — Attachment ____

___ Approve Department Recommendation

___	Variance Request	Attachment ___
___	Exception to Rule	Attachment ___
___	Informational Report	Attachment ___
___	Other: (specify)	

DESCRIPTION OF REQUESTED ACTION:

The Environmental Quality Commission (EQC, Commission) authorized these proposed rule amendments for public hearing at its October 20, 1989 meeting. The testimony from the hearings held in Portland and Medford have been summarized in Attachment C.

At this time the Department is requesting adoption of the upset rule amendments, as modified after consideration of public comments and appropriate revisions by the Department.

AUTHORITY/NEED FOR ACTION:

___	Required by Statute: _____ Enactment Date: _____	Attachment ___
X	Statutory Authority: ORS 468.280	Attachment ___
X	Amendment of Existing Rule: OAR 340-21-065 thru 075	Attachment ___
___	Implement Delegated Federal Program:	Attachment ___
___	Other:	Attachment ___
___	Time Constraints: (explain)	

DEVELOPMENTAL BACKGROUND:

___	Advisory Committee Report/Recommendation	Attachment ___
X	Hearing Officer's Report/Recommendations	Attachment C
___	Response to Testimony/Comments	Attachment ___
___	Prior EQC Agenda Items: (list)	Attachment ___
___	Other Related Reports/Rules/Statutes:	Attachment ___
X	Supplemental Background Information:	Attachment A

Excess Emission Action/Documentation Procedures Flow Chart

The Department of Environmental Quality (Department) has proposed amendments to its "Upset Condition" Rules by adding criteria which tighten reporting and documentation procedures for all excess emissions, and which indicate that enforcement action may be taken for excess emissions which occur during startup, shutdown, maintenance and breakdown. The Department has aligned its rules with the Environmental

Protection Agency's (EPA) enforcement guidelines, which state that 1) all excess emissions should be subject to enforcement action and 2) establish criteria to guide sources when reporting excess emissions as to what information needs to be submitted to avoid possible enforcement action. They place the burden of proof on the source to demonstrate that a period of excess emission was unavoidable and that prompt agency notification and remedial action occurred.

REGULATED/AFFECTED COMMUNITY CONSTRAINTS/CONSIDERATIONS:

The Department's current air quality "upset rules" require sources to promptly report all excess emissions, however, if the source reports the event to the Department and takes corrective action, the excess emissions are not considered to be a violation of applicable standards. By following EPA's guidelines, the proposed amendments to the upset rules will eliminate this provision, subjecting all excess emissions to subsequent review by the Department for possible enforcement action.

The additional requirements on industry posed by the new excess emission rules can be summarized as follows:

- require immediate notification of excess emissions, or no later than one hour from the occurrence, for large sources and any high-risk small source;
- place the burden of proof on the source to demonstrate that the period of excess emissions was due to an "unavoidable" condition;
- require documentation of all planned and unplanned excess emissions in an Upset Log, listing all pertinent facts related to the period of excess emissions;
- instead of a written statement which includes only the causes and action taken to prevent recurrence of excess emissions, require more complete details of the nature, magnitude, duration, equipment involved, and remedial action taken, in a written Excess Emissions Report, to be submitted in 15 days or sooner if so requested.
- for excess emissions which are anticipated in advance due to startup, shutdown, or maintenance, require submittal and Department approval of a letter outlining procedures to be followed to minimize excess emissions.

Industry response to these additional requirements is summarized in the Hearings Officer's Report in Attachment B. The primary concern raised by industry was the additional reporting requirements specified in the proposed amendments. It was stated that these requirements would represent significant workload demand due to the time and cost associated with reporting all planned and unplanned excess emissions, regardless of size or duration. Industry claimed this level of reporting was unnecessary, and advocated limiting "immediate" notification to large sources which cause excess emissions of a high risk nature only. They pointed out that requiring extensive amounts of documentation for minor or short duration excess emissions was inappropriate and represented an unnecessary burden. They also expressed concern over the costs associated with delays with obtaining prompt written responses from the Department, as a result of the Department's workload being increased by the additional reporting required by the new rules.

Testimony provided by representatives of environmental groups is also summarized in the Hearing Officer's Report in Attachment C. This testimony advocated tighter requirements for excess emissions by establishing a limit of five (5) percent of the operational time over which automatic monetary fine would result. Also favored was special consideration for PM_{10} nonattainment areas, in terms of curtailing startups, shutdowns, and regularly scheduled maintenance during yellow and red air pollution alerts, and more severe penalties for excess emission violations which occur during these periods. Other concerns expressed included utilizing continuous emission monitoring data for enforcement cases involving excess emissions, revising the "small source" definition by replacing "controlled emissions" with "uncontrolled emissions", and adding a provision which requires excess emissions to be expressed in hourly emission rates, rather than monthly or annual emissions.

PROGRAM CONSIDERATIONS:

Amending the Department's excess emission rules will 1) provide necessary information to evaluate whether enforcement action is warranted, 2) provide a complete record of the occurrences of excess emissions, and 3) insure that excess emissions are minimized to the fullest extent possible. While it is expected that these amendments will increase the workload for both industry and the Department, it is not anticipated that it will represent a significant workload problem or burden. Industry is currently required to report

all excess emissions, and under the new requirements the Department expects most excess emissions will continue to be typically minor events which the source can enter into its Upset Log. For those major events which occur, sources will continue to have the responsibility to promptly report them to the Department, and to provide complete details on the severity of the excess emissions.

The Department's Air Quality Division has worked closely with Regional Operations Division in identifying streamlined procedures to minimize the workload associated with these new rules. The streamline procedures identified consist of 1) an Excess Emission Reporting Form to be filled out by regional staff upon notification of an excess emission, a 2) Notice of Excess Emissions letter to be sent to sources following notification, and 3) an Excess Emission Flow Chart which summarizes all actions to be taken by the source and Department's staff in response to an excess emission (see Attachment A). These procedures will be compiled as part of a rule implementation package and distributed to the Department's regional offices before the adopted rules are filed with the Secretary of State and become effective.

ALTERNATIVES CONSIDERED BY THE DEPARTMENT:

1. Revise the current rules to establish consistency with current federal enforcement policy regarding excess emissions, as originally proposed by the Department, with no other changes.

2. Revise the current rules in accordance with current federal enforcement policy, as proposed by the Department, except add several modifications as suggested by public testimony (see Attachment C).

3. Set an absolute limit on the frequency for excess emissions above which a source would automatically receive a civil penalty (fine).

4. Establish a limit on the duration and magnitude for excess emissions below which a source would not be required to report "immediately", and reduce the amount of information a source must submit to the Department for excess emissions which are minor or of short duration, and do not endanger public health.

DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:

1. Alternative 1 is not recommended, as the Department believes modifications to the original proposed amendments are necessary as a result of public testimony.

2. The Department recommends Alternative 2, as it supports several modifications to the proposed rules as provided by the public testimony. These modifications are as follows:

   (a) Revise the provision in the proposed rules to require Department approval in advance of planned excess emissions related to startup, shutdown, and scheduled maintenance. This means changing the provision to read that the Department would pre-approve procedures that will be followed to minimize excess emissions, not pre-approve excess emissions. The Department agrees with EPA's comments that it would not be in conformance with EPA policy to excuse excess emissions from enforcement action before they have occurred. Under this approach, determination as to whether the actual excess emissions were avoidable and subject to formal enforcement action would still be required after the facts related to the actual excess emission were reviewed.

   (b) Retain existing rule language which requires the source to cease operation if the excess emissions continue more than 48 hours, unless specific authorization of emission reduction procedures is obtained from the Department. The Department agrees this provision should be retained in the rules, but would add a requirement that the source submit and the Department authorize procedures to minimize excess emissions beyond the 48 hour period, so that the source will be held accountable for any "avoidable" excess emissions which occur during this period.

   (c) Establish provisions which would prohibit planned excess emissions (start-ups, shutdowns, and maintenance) in designated PM_{10} non-attainment areas during "yellow" and "red" woodstove curtailment periods. The Department supports this modification, and has added to the appropriate sections of the proposed rules prohibiting planned

excess emissions for designated PM_{10} non-attainment areas during "yellow" and "red" woodstove curtailment periods. The Department also added this provision to the list of factors the Department will consider in determining if a source must cease operating during a period of excess emissions due to breakdown.

(d) Provide additional definitions and redefine existing definitions in order to clarify some of the requirements in the proposed amendments. The Department has added a definition for "immediately" to clarify this requirement for reporting purposes, and redefined "equipment breakdown" as covering both process equipment and emissions control equipment. The Department also simplified the existing definitions for "Upset or Breakdown" and "Small Source". Some restructuring of the proposed rules were made in order to clarify various requirements, without changing the actual language.

Other modifications to the proposed amendments were suggested during public testimony, however after careful consideration the Department chose not to support these changes. Those modifications not supported were as follows:

- Eliminate the differences in reporting requirements for "large" and "small" sources, making all sources responsible for reporting any excess emission immediately, since the definition of "small source" does not address the toxicity of the emissions. This modification was not supported because the Department believes that immediate reporting for small sources is necessary only in cases where the potential for harm to the public or environment exists. The Department anticipates that small sources which have the potential for excess emissions of toxic air contaminants will still be required to report immediately thru permit condition. By allowing the remaining to accumulate minor excess emissions in their Upset Log, the Department minimizes the workload for both sources and staff.

- Make revisions to the following terms and definitions: 1) deleting NESHAPS (National Emission Standards for Hazardous Air Pollutants) sources from the "large source" definition, as this

is more appropriate to be addressed in the NESHAPS regulations; 2) deleting the term "at the design capacity" in the definition of "large source", since some sources operate at levels considerably under their designed level; and 3) deleting and the word "controlled" in the definition of "small source", as the focus of the excess emissions should be on "uncontrolled" emissions rather than "controlled". The Department does not support any of these modifications, as it has based its definitions for "large" and "small" sources on federal definitions contained in its Compliance Assurance Agreement with EPA, which contains definitions for "major" and "minor" sources, based on a 100 ton/year division point for emissions from stationary sources, used for establishing reporting, monitoring, and testing requirements to ensure compliance with state and federal air pollution control regulations.

- o The Department did not amend the terms "improper maintenance", "improper design", and "reoccurring malfunction", based on the belief that each case and circumstances should be judged on its own merits.

3. The Department does not recommend Alternative 3, which was advocated by representatives of several environmental organizations. The Department does not believe that applying an absolute limit on the duration and frequency of excess emissions before monetary penalties are imposed would be appropriate. While the Washington Department of Ecology follows a policy which limits excess emissions to 5 percent of the operating time on a monthly basis for sources equipped with continuous emission monitoring systems, they have gravitated to not applying monetary penalties for anything less than 5 percent of the time, even if an excess emission might be avoidable. EPA indicated that such an approach would only be appropriate if a percentage excess emissions limit was based on a technology standard applied to a specific source. For example, EPA Region V currently uses a 5 percent approach as an "unwritten policy" applied to coal-fired power plants, which despite the use of best pollution control technology, have a greater frequency of both planned and unplanned excess emissions than other sources. In the Department opinion, setting a 5 percent limit for all excess emissions regardless of the

technology utilized by the source is not be consistent with the capabilities of all sources in preventing or limiting excess emissions. The Department believes that its current enforcement policy of evaluating the circumstances of each case of excess emissions is the most reasonable and equitable approach to follow.

4. The Department also does not recommend Alternative 4. While the Department agrees that all low risk/minor excess emissions do not need to be reported immediately, the Department does not believe it is possible to uniformly and equitably predetermine for all sources a certain magnitude or duration which could be expected to represent a significant health risk. Instead, the Department believes this is best accomplished by identifying specific small sources which need not report immediately based on their excess emissions potential. The Department recognizes the need to develop streamline procedures for reporting excess emissions, but believes that all excess emissions must be fully documented in order to determine the severity of each event. The proposed amendments do address both the need for full documentation and for streamlining reporting, by allowing those sources which fall under the 100 ton/year division point recognized as minor in federal rules for sources subject to emissions reporting, to be designated as "small" sources and allowed to report cumulative excess emissions once a year unless specifically required to report more frequently by the Department.

CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE POLICY:

The proposed amendments are consistent with Goal 4 of the proposed Strategic Plan, in minimizing the extent and duration of unpermitted releases to the environment, and with Goal 8, in identifying procedures which streamline agency programs by identifying and implementing more efficient ways to accomplish essential actions and eliminate low priority tasks.

Department is not aware of any conflicts with any agencies or legislative policies.

ISSUES FOR COMMISSION TO RESOLVE:

The Commission needs to consider:

1. Should a rule or policy be developed specifying for all sources a limit on the duration and frequency of excess emissions the Department when automatic monetary penalties are assessed, or should this continue to be addressed on a case-by-case basis?

2. Do the Department's reporting requirements for excess emissions represent an unreasonable burden to industry?

3. Should all sources, including those defined as "small", be required to report to the Department immediately?

INTENDED FOLLOWUP ACTIONS:

1. File adopted rules with the Secretary of State.

2. Submit the adopted rules to EPA as a revision to the State Implementation Plan.

Approved:

Section: John F. Kowalczyk

Division: Nick Nikkila

Director: Fred Hansen

Report Prepared By: Brian R. Finneran

Phone: 229-6278

Date Prepared: May 9, 1990

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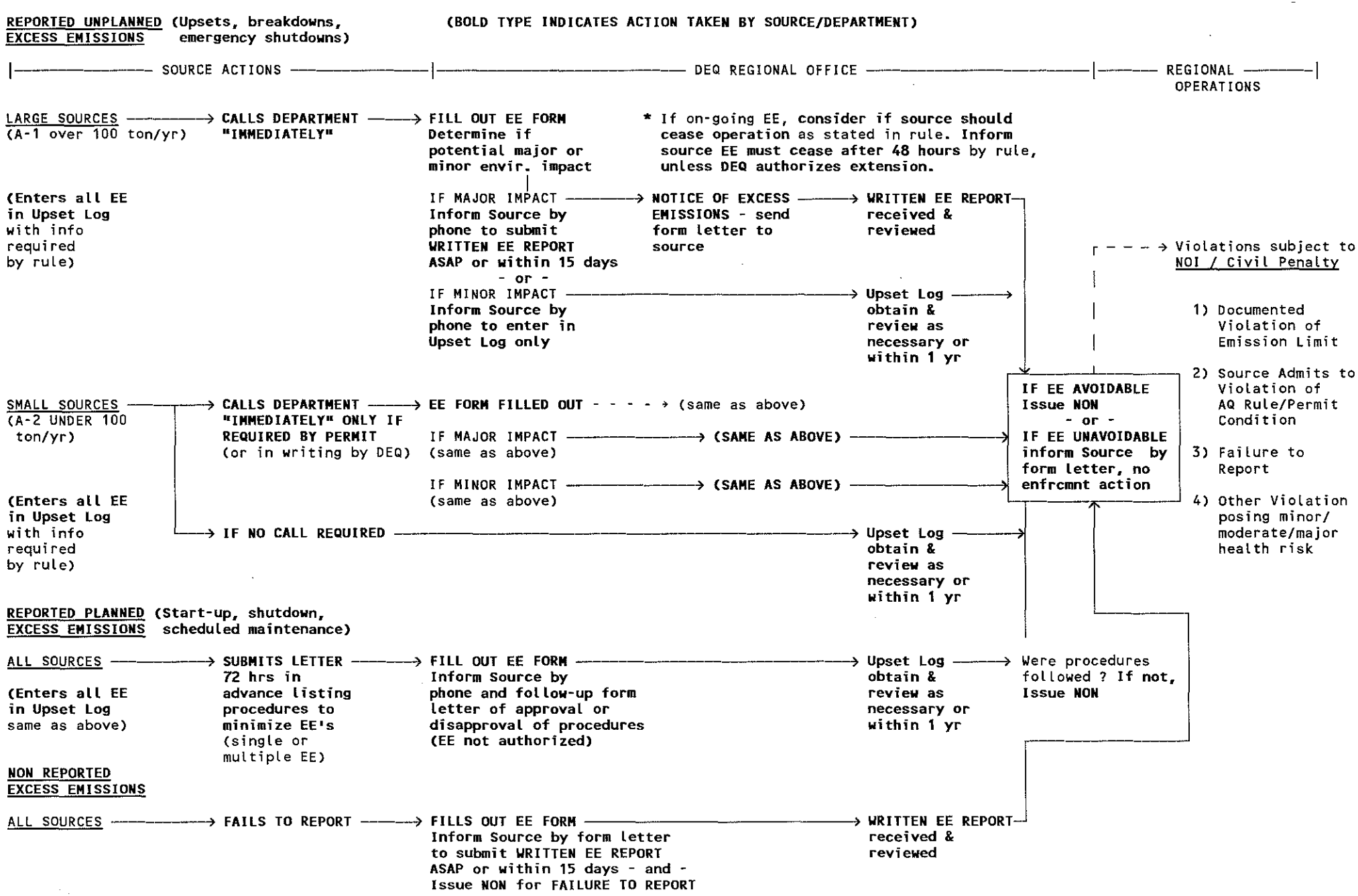
EXCESS EMISSION ACTION/DOCUMENTATION PROCEDURES



ATTACHMENT B

[Upset Conditions]Excess Emissions

[Introduction]**Purpose and Applicability**

[340-21-065]**340-20-350** Emissions of air contaminants in excess of applicable standards **or permit conditions** [as a result of scheduled maintenance, or equipment breakdown shall not be considered a violation of said standards provided the conditions of rules] **are considered unauthorized and subject to enforcement action, pursuant to** [340-21-070 and 340-21-075] **340-20-360 through 340-20-380** [are met]. **These rules apply to any source which emits air contaminants in violation of any applicable air quality rule or permit condition resulting from the breakdown of air pollution control equipment or operating equipment, process upset, start up, shut down, or scheduled maintenance. The purpose of these rules is to (1) require that, where applicable, all excess emissions be reported by sources to the Department immediately, (2) require sources to submit information and data regarding conditions which resulted or could result in excess emissions, and (3) identify criteria to be used by the Department for determining whether enforcement action will be taken against an excess emission.**

[Scheduled Maintenance

340-21-070 - (1) In the case of shutdown of air pollution control equipment for necessary scheduled maintenance, the intent to shutdown such equipment shall be reported to the Department at least twenty-four (24) hours prior to the planned shutdown. Such prior notice shall include, but is not limited to the following:

(a) Identification of the specific facility to be taken out of service;

(b) The expected length of time that the air pollution control equipment will be put out of service;

(c) The nature and quantity of emissions of air contaminants likely to occur during the shutdown period;

(d) Measures, such as the use of offshift labor and equipment, that will be taken to minimize the length of the shutdown period, and where practical, minimize air contaminant emissions;

(e) The reasons that it would be impractical to shut down the source operation during the maintenance period.

(2) Additionally, in the case of maintenance scheduled more frequently than one time in a 90-day period, requiring shutdown of air pollution control equipment, or for any maintenance requiring shutdown of air pollution control equipment for a time period longer than 48 hours, prior approval of the maintenance program may be required by the Department. Application for approval shall be submitted in writing within 30 days after a request by the Department and shall include, in addition to subsections (a) through (e) in section (1) of this rule, specific information as to the frequency and the necessity of the scheduled maintenance. Approval of the program by the Department shall be based upon a determination that the proposed maintenance schedule is necessary and that all reasonable precautions have been taken to minimize the extent and frequency of air contaminant emissions in excess of applicable standards.

(3) No scheduled maintenance resulting in the emission of air contaminants in violation of applicable standards shall be performed during any period in which Air Pollution Alert, Air Pollution Warning, or Air Pollution Emergency has been declared.]

[Malfunction of Equipment

340-21-075 In the event that any emission source, air pollution control equipment or related facility malfunctions or breaks down in such a manner as to cause the emission of air contaminants in violation of applicable standards, the person responsible for such equipment shall:

(1) Notify the Department, by telephone or in person, of such failure or breakdown within one (1) hour of the occurrence, or as soon as is reasonably possible, giving all pertinent facts including the estimated duration of the breakdown.

(2) With all practicable speed, initiate and complete appropriate action to correct the conditions, and to reduce the frequency of such occurrences.

(3) Cease or discontinue operation of the equipment or facility no later than 48 hours after the beginning of the breakdown or upset period if the malfunction is not corrected within that time. The Director may, for good cause shown, which shall include but not be limited to, equipment availability, difficulty of repair or installation, and nature and amount of the emission, authorize the extension of the operation period beyond 48 hours under this section for a reasonable period of time as determined by him to be necessary to correct the malfunction or breakdown.

(4) In the event an Air Pollution Alert, Air Pollution Warning, or Air Pollution Emergency is declared, or in the event the nature or magnitude of emissions from malfunctioning equipment is deemed by the Department to present an imminent and substantial endangerment to health, immediately proceed to cease or discontinue operation of the equipment or facility.

(5) Notify the Department when the condition causing the failure or breakdown has been corrected, and upon request, submit a written statement of the causes and the action taken to prevent future similar upset or breakdown conditions.]

Definitions

340-20-355 As used in this rule, unless otherwise required by context:

(1) "Event" means any period of excess emissions.

(2) "Excess emissions" means emissions which are in excess of an Air Contaminant Discharge Permit limit or any applicable air quality rule.

(3) "Immediately" means as soon as possible but in no case more than one hour after the beginning of the excess emission period.

(4) "Large Source" means any stationary source whose actual emissions or potential controlled emissions while operating full-time at the design capacity are equal to or exceed 100 tons per year of any regulated pollutant, or which is subject to a National Emissions Standard for Hazardous Air Pollutants. Where plant site emission limits (PSEL) have been incorporated into the Air Contaminant Discharge Permit, the PSEL shall be used to determine actual emissions.

(5) "Permittee" means the owner or operator of the facility, in whose name the operation of the source is authorized by the Air Contaminant Discharge Permit.

(6) "Process Upset" means a failure or malfunction of a production process or system to operate in a normal and usual manner.

(7) "Small Source" means any stationary source with a regular Air Contaminant Discharge Permit (not a letter permit or a minimal source permit) which is not classified as a large source.

(8) "Startup" and "shutdown" mean that time during which an air contaminant source or emission-control equipment is brought into normal operation or normal operation is terminated, respectively.

(9) "Unavoidable" means events which are not caused entirely or in part by poor or inadequate design, operation, maintenance, or any other preventable condition in either process or control equipment.

(10) "Upset" or "Breakdown" mean any failure or malfunction of any pollution control equipment or operating equipment which may cause an excess emission.

Planned Startup and Shutdown

340-20-360 (1) In cases where startup or shutdown of a production process or system may result in excess emissions, prior Department authorization shall be obtained of startup/shutdown procedures that will be used to minimize excess emissions. Application for approval of procedures shall be submitted and received by the Department in writing at least seventy-two (72) hours prior to the event, and shall include the following:

(a) The reasons why the excess emissions during startup and shutdown could not be avoided;

(b) Identification of the specific production process or system causing the excess emissions;

(c) The nature of the air contaminants likely to be emitted, and an estimate of the amount and duration of the excess emissions;

(d) Identification of specific procedures to be followed which will minimize excess emissions at all times.

(2) Approval of the startup/shutdown procedures by the Department shall be based upon determination that said procedures are consistent with good pollution control practices, and will minimize emissions during such period to the extent practicable, and that no adverse health impact on the public will occur. The permittee shall record all excess emissions in the upset log as required in OAR 340-20-375(3). Approval of the startup/shutdown procedures shall not absolve the permittee from enforcement action if the approved procedures are not followed, or if excess emissions which occur are determined by the Department to be avoidable, pursuant to OAR 340-20-380(1).

(3) No startups or shutdowns resulting in excess emissions associated with the approved procedures in section (2) of this rule shall occur during any period in which an Air Pollution Alert, Air Pollution Warning, or Air Pollution Emergency has been declared, or during an announced yellow or red woodstove curtailment period in areas designated by the Department as PM_{10} Nonattainment Areas.

(4) In cases where notification of a planned startup or shutdown likely to cause excess emissions has not been provided to the Department 72 hours prior to the event, the permittee shall immediately notify the Department by telephone of the situation, and shall be subject to the requirements under Upsets and Breakdowns in OAR 340-20-370.

Scheduled Maintenance

340-20-365 (1) In cases where it is anticipated that shutdown, by-pass, or operation at reduced efficiency of air pollution control equipment for necessary scheduled maintenance may result in excess emissions, prior Department authorization shall be obtained of procedures that will be used to minimize excess emissions. Application for approval of procedures associated with scheduled maintenance shall be submitted and received by the

Department in writing at least seventy-two (72) hours prior to the event, and shall include the following:

(a) The reasons explaining the need for maintenance, including why it would be impractical to shut down the source operation during the period, and why the by-pass or reduced efficiency could not be avoided through better scheduling for maintenance or through better operation and maintenance practices.

(b) Identification of the specific production or emission control equipment or system to be maintained;

(c) The nature of the air contaminants likely to be emitted during the maintenance period, and the estimated amount and duration of the excess emissions, including measures, such as the use of overtime labor and contract services and equipment, that will be taken to minimize the length of the maintenance period;

(d) Identification of specific procedures to be followed which will minimize excess emissions at all times.

(2) Approval of the above procedures by the Department shall be based upon determination that said procedures are consistent with good pollution control practices, and will minimize emissions during such period to the extent practicable, and that no adverse health impact on the public will occur. The permittee shall record all excess emissions in the upset log as required in OAR 340-20-375(3). Approval of the above procedures shall not absolve the permittee from enforcement action if the approved procedures are not followed, or if excess emissions occur which are determined by the Department to be avoidable, pursuant to OAR 340-20-380(1).

(3) No scheduled maintenance associated with the approved procedures in section (2) of this rule, which is likely to result in excess emissions, shall occur during any period in which an Air Pollution Alert, Air Pollution Warning, or Air Pollution Emergency has been declared, or during an announced yellow or red woodstove curtailment period in areas designated by the Department as PM_{10} Nonattainment Areas.

(4) In cases where notification of necessary scheduled maintenance likely to cause excess emissions has not been provided to the Department 72 hours prior to the event, the permittee shall immediately notify the Department by telephone of the situation, and shall be subject to the requirements under Upset and Breakdowns in OAR 340-20-370.

Upsets and Breakdowns

340-20-370 (1) For large sources, as defined by 340-20-355(4), all excess emissions due to upset or breakdown must be reported to the Department immediately. Based on the severity of the event, the Department will either require submittal of a written report pursuant to 340-20-375(1) and (2), or a recording of the event in the upset log as required in 340-20-375(3).

(2) Small sources, as defined by 340-20-355(7), need not report excess emissions due to upset or breakdown immediately unless required to do so by permit condition or written notice by the Department, or unless the excess emission is of a nature that could endanger public health. Based on the severity of the event, the Department will either require submittal of a written report pursuant to 340-20-375(1) and (2), or a recording of the event in the upset log as required in 340-20-375(3).

(3) During any period of excess emissions due to upset or breakdown, the Department may require that a source immediately proceed to reduce or cease operation of the equipment or facility until such time as the condition causing the excess emissions has been corrected or brought under control. Such action by the Department would be taken upon consideration of the following factors:

(a) Potential risk to the public or environment;

(b) Whether shutdown could result in physical damage to the equipment or facility, or cause injury to employees;

(c) Whether any Air Pollution Alert, Warning, Emergency, or yellow or red woodstove curtailment period exists; or

(d) If continued excess emissions were determined by the Department to be avoidable.

(4) In the event of any on-going period of excess emissions due to upset or breakdown, the source shall cease operation of the equipment or facility no later than 48 hours after the beginning of the excess emission period, if the condition causing the emissions is not corrected within that time. The source need not cease operation if it can obtain Department's approval of procedures that will be used to minimize excess emissions until such time as the condition causing the excess emissions is corrected or brought under control. Approval of these procedures shall be based on the following information supplied to the Department:

(a) The reasons why the condition(s) causing the excess emissions can not be corrected or brought under control. Such reasons shall include but not be limited to equipment availability and difficulty of repair or installation.

(b) Information as required in 340-20-360(1)(b), (1)(c), and (1)(d).

(5) Approval of the above procedures by the Department shall be based upon determination that said procedures are consistent with good pollution control practices, and will minimize emissions during such period to the extent practicable, and that no adverse health impact on the public will occur. The permittee shall record all excess emissions in the upset log as required in 340-20-375(3). At any time during the period of excess emissions the Department may require the source to cease operation, in accordance with section (3) of this rule. In addition, approval of these procedures shall not absolve the permittee from enforcement action if the approved procedures are not followed, or if excess emissions occur that are determined by the Department to be avoidable, pursuant to 340-20-380(1).

Reporting Requirements

340-20-375 (1) For any period of excess emissions, the Department may require the source to submit a written excess emission report within fifteen (15) days of the date of the event, which includes the following:

(a) The date and time each event was reported to the Department;

(b) Information as described in 340-20-380(1)(a) through (e);

(c) The final resolution of the cause of the excess emissions.

(2) Based on the severity of event, the Department may waive the 15 day reporting requirement, and specify either a shorter or longer time period for report submittal. The Department may also waive the submittal of the written report, if in the judgement of the Department, the period or magnitude of excess emissions was minor. In such cases the source shall record the event in the upset log pursuant to section (3) of this rule.

(3) Large and small sources shall keep an upset log of all planned and unplanned excess emissions. The upset log shall include all pertinent information as required in section (1) of this rule.

(4) At each annual reporting period specified in a permit, or sooner if required by the Department, the permittee shall submit a copy of the log entries for the reporting period. Upset logs shall be kept by the permittee for two (2) calendar years.

Enforcement Action Criteria

340-20-380 (1) In determining if a period of excess emissions is avoidable, and whether enforcement action is warranted, the Department shall consider the following information submitted by the source:

(a) Whether notification occurred immediately pursuant to 340-20-370(1) and (2);

(b) Whether the event occurred during startup, shutdown, maintenance, or as a result of a breakdown or malfunction;

(c) Whether the Department was furnished with complete details of the event, i.e., the equipment involved, the duration or best estimate of the time until return to normal operation, the magnitude of emissions and the increase over normal rates or concentrations as determined by continuous monitoring or a best estimate (supported by operating data and calculations);

(d) Whether the amount and duration of the excess emission were limited to the maximum extent practicable during the period of excess emissions;

(e) Whether the appropriate remedial action was taken; and

(f) Whether the event was due to negligent or intentional operation by the source. For the Department to find that an incident of excess emissions is not due to negligent or intentional operation by the source, the permittee must demonstrate, upon Department request, that all of the following conditions were met:

(A) The process or handling equipment and the air pollution control equipment were at all times maintained and operated in a manner consistent with good practice for minimizing emissions.

(B) Repairs or corrections were made in an expeditious manner when the operator(s) knew or should have known that emission limits were being or were likely to be exceeded. Expeditious manner may include such activities as use of overtime labor or contract labor and equipment that would reduce the amount and duration of excess emissions.

(C) The event was not one in a recurring pattern of incidents which indicate inadequate design, operation, or maintenance.

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Attachment C

MEMORANDUM

HEARINGS OFFICER'S REPORT

TO: Environmental Quality Commission

FROM: Brian Finneran, Hearings Officer

DATE: April 19, 1990

SUBJECT: Public Hearings: December 15, 1989, in Portland
December 15, 1989, in Medford

Adoption of Amendments to "Upset Condition" Rules.

Schedule and Procedures

The Department of Environmental Quality held two public hearings on these proposed rules in Portland and Medford Oregon, at the times and places announced in the Secretary of State's Bulletin, the Oregonian, and the Medford Mail Tribune.

A total of 35 people attended the public hearings, with 16 persons providing verbal testimony. Four people attended the Portland hearing, one testifying, and 31 attended the Medford hearing, 15 testifying. Eight separate statements were received as written testimony during the public comment period, which ended December 22, 1989.

Primary Positions

Of the twenty-five people providing verbal and written testimony, all but two indicated that they primarily favored the proposed rule amendments. However, many of these stated that the proposed rules needed modification (see discussion below). The remaining two indicated a neutral position, also favoring modification to the rules.

A list of the persons providing testimony is attached to this report. The list includes the name, affiliation, submittal of written testimony, and primary position on the proposed rules as indicated on the witness registration form or by testimony.

Issues

The majority of the testimony received during the public comment period advocated the development more stringent requirements for excess emissions. This testimony came exclusively from the Medford public hearing, and reflected the opinions of representatives from several environmental groups and citizens from southern Oregon.

This testimony addressed the following issues:

1. Establish a 5% limit on the duration and frequency of low risk/minor excess emissions above which a source will be fined, similar to the policy approach taken in the State of Washington.

2. Use data obtained from continuous emission monitoring systems to determine compliance with applicable emission limits.

3. Add a provision which requires excess emissions to be expressed in hourly emission rates, rather than monthly or yearly.

4. Revise the definition of "small source" in the proposed rules by replacing "controlled emissions" with "uncontrolled emissions".

5. Add a provision prohibiting startups, shutdowns, and scheduled maintenance in PM_{10} nonattainment areas during yellow and red air pollution alerts.

6. Retain existing rule language which requires the source to cease or discontinue operation if excess emissions continue more than 48 hours, unless authorization from the Department is obtained.

7. Add a provision that specifies all "avoidable" excess emissions will receive a Notice of Noncompliance or automatic fine.

At the Portland public hearing testimony was provided by Thomas C. Donaca, representing Associated Oregon Industries. Three other industry representatives attended the hearing. Two industry representatives not attending the public hearings submitted written testimony. Industry testimony focused on the additional reporting requirements in the new rules, and changes to several rule definitions.

This testimony addressed the following issues:

1. The proposed reporting requirements are burdensome for industry, and should be revised so that immediate reporting in required only for large sources if their excess emissions exceed a pre-determined time or quantity, or could endanger public health.

2. Revise the definition of "large source" in the proposed rules, deleting the term "at design capacity", so that sources which have never operated at their design capacity are not inappropriately classified as a large source.

3. Revise the definition of "large source" so that sources subject to NESHAPS emissions are not included, but rather addressed in the NESHAPS regulations.

4. Remove the provision requiring sources to submit in writing information on procedures to be followed to minimize emissions for planned startups, shutdowns, or scheduled maintenance, and instead make this application an addendum to the source's operating permit.

5. Provide a more "objective" definition of what will considered by the Department as an "unavoidable" excess emission, and clarify what the Department will consider as "proof" for an avoidable excess emission.

6. The Department should provide some guidance on when excess emissions should require backup pollution equipment control.

7. The proposed rules should fully address the fiscal impact of the additional reporting requirements to both the Department's staff and the regulated community.

8. Several of the definitions in the proposed rules are vague and subject to interpretation, such as "improper maintenance", "improper design", and "recurring malfunction".

Written comments were also received from the Environmental Protection Agency and the Oregon Health Division. These comments pointed out specific revisions to the rules which were needed.

This testimony addressed the following issues:

1. Revise the provision in the proposed rules which allows the Department to approve in advance planned excess emissions related to startup, shutdown, and scheduled maintenance, so that just pre-approval of procedures is given rather than pre-approval of excess emissions.

2. Since the "small source" classification does not address the toxicity of the emissions, eliminate the distinction between "large" and "small" sources, making all sources responsible for reporting any excess emission immediately.

3. Clarify several of the definitions in the proposed rules, such as "immediately", "reoccurring", and "equipment breakdown".

EXCESS EMISSION RULE PUBLIC TESTIMONY

TEST-IMONY[1]	NAME	AFFILIATION	GENERAL POSITION[2]
1. b	Thomas Donaca	Association of Oregon Industries	N
2. w	John McKinnon	Stone Forest Industries	F
3. b	Robert Palzer M.D.	Coalition to Improve Air Quality	F
4. w	Catherine Golden	City of Ashland	F
5. b	C. Herschel King M.D.	Sierra Club	F
6. b	Harvey Caine	Citizen	F
7. b	Wallace Skyrman	Citizen	F
8. b	Gary Leirberger M.D.	Citizen	F
9. b	Vera Morrell	Coalition to Improve Air Quality	F
10. b	D. Wayne Linn	Citizen	F
11. b	Liz Vesecky	Citizen	F
12. v	Myra Erwin	Citizen	F
13. v	Mary Bayliss	League of Women Voters	F
14. b	Roslyn Parker	Sierra Club	F
15. v	Kermit Lisle	Medford City Council	F
16. v	James Shute	Citizen	F
17. v	Joe Eckhardt	Citizen	F
18. v	Jeff Golden	Jackson County	F
19. w	Teresa Giacomini	Friends of Greensprings	F
20. w	Frank Hirst	Citizen	F
21. w	Diana Bear	Citizen	F
22. w	Patricia Kuhn	Coalition to Improve Air Quality	F
23. w	Thomas Krause	Glenbrook Nickel Company	N
24. w	David Kirsher	Environmental Protection Agency	F
25. w	Kenneth Kauffman	Oregon Division of Health	F

[1] Testimony
v = verbal
w = written
b = both verbal and written

[2] Primary Position
F = Favor
O = Opposed
N = Neutral

BRF:a
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(4/90)

RULEMAKING STATEMENTS FOR TEMPORARY EXCESS EMISSIONS

STATEMENT OF NEED FOR RULEMAKING

Pursuant to ORS 183.335(7), this statement provides information on the intended action to amend a rule.

(1) Legal Authority

This proposal amends Oregon Administrative Rules (OAR) 340-21-065 to 340-21-080. It is proposed under authority of Oregon Revised Statutes (ORS) Chapter 468.020, 468.280, and 468.295.

(2) Need for these rules

The proposed rule revisions are necessary to make Department's Air Quality "Upset Condition" rules consistent with federal policy related to temporary excess emissions of air contaminants. Federal guidelines place the responsibility on the source to demonstrate to the appropriate control agency that a period of excess emission was the result of an unavoidable condition, for which prompt agency notification and remedial action occurred.

(3) Principal Documents Relied Upon

OAR 340, Division 21, General Emission Standards for Particulate Matter

EPA Region 10: Guidance for the Preparation of SIP Excess Emissions Regulation

LAND USE CONSISTENCY STATEMENT

The Department has concluded that the proposed rule amendments do not appear to affect land use and will be consistent with Statewide Planning Goals and Guidelines.

With regard to Goal 6, (air, water, and land resources quality), the proposed changes are designed to enhance and preserve air quality in the state and are considered consistent with the goal. The proposed rule changes do not appear to conflict with the other goals.

Public comment on any land use issue involved is welcome and may be submitted in the same fashion as indicated for other testimony on these rules.

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

FISCAL AND ECONOMIC IMPACT STATEMENT

Sources affected by these rules are also required by OAR 340-20-140 to obtain an Air Contaminant Discharge Permit, and to comply with the permit conditions and all other applicable air quality regulations. Therefore, sources affected by these rules are already subject to the costs of control and compliance.

PLAN\AR1370

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

NOTICE OF PUBLIC HEARING

Hearing Date: December 15, 1989
Comments Due: December 22, 1989

WHO IS AFFECTED:

Any source which emits air contaminants in excess of an Air Contaminant Discharge Permit, a State rule, or a Federal emission regulation.

WHAT IS PROPOSED:

The Department of Environmental Quality is proposing to amend OAR 340-21-065 to 080 relating to the Department's Air Quality "Upset Condition" Rules.

WHAT ARE THE HIGHLIGHTS:

The Department is proposing to amend its "Upset Condition" Rules by adding criteria which tightens reporting and documentation procedures for all excess emissions, and which indicated enforcement action may be taken for excess emissions which occur during startup, shutdown, maintenance and breakdown, if the Department finds such excess emission to be avoidable.

HOW TO COMMENT:

Copies of the complete proposed rule package may be obtained from Air Quality Division in Portland 811 S.W. Sixth Avenue or the regional office nearest you. For further information contact Brian R. Finneran at (503) 229-6278.

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

9:00 AM
Friday, December 15, 1989
Rm 4A, 4th Fl, Executive Bldg
Dept. of Environmental Quality
811 SW Sixth Avenue
Portland, Oregon 97204

1:00 PM
Friday, December 15, 1989
Jackson County Courthouse
10 S Oakdale
Medford, Oregon

Oral and written comments will be accepted at the public hearing. Written comments may be sent to the DEQ, but must be received by no later than Friday, December 22, 1989.

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

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FOR FURTHER INFORMATION:

Contact the person or division identified in the public notice by calling 229-5696 in the Portland area. To avoid long distance charges from other parts of the state, call 1-800-452-4011.

WHAT IS THE NEXT STEP:

After public hearing the Environmental Quality Commission may adoptrule amendments identical to the proposed amendments, adopt modified rule amendments on the same subject matter, or decline to act. The adopted rules will be submitted to the U. S. Environmental Protection Agency as part of the State Clean Air Act Implementation Plan. The Commission's deliberation should come in January 11, 1990 as part of the agenda of a regularly scheduled Commission meeting.

A Statement of Need, Fiscal and Economic Impact Statement, and Land Use Consistency Statement are attached to this notice.

PLAN\AR1341