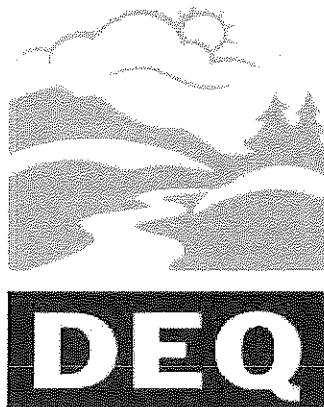


**OREGON
ENVIRONMENTAL QUALITY
COMMISSION MEETING
MATERIALS 12/13/1991**



**State of Oregon
Department of
Environmental
Quality**

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State of Oregon
ENVIRONMENTAL QUALITY COMMISSION

A G E N D A

REGULAR MEETING - December 13, 1991

DEQ Conference Room 3a

811 S. W. 6th Avenue

Portland, Oregon

8:30 a.m.

NOTE: *The Public Forum is scheduled for 11:30 a.m. and will be convened as near to that time as possible. The meeting will be recessed at about 12:00 p.m. for lunch. See page 2 of the agenda for additional information on the Public Forum and planned lunch discussion.*

- A. Approval of Minutes of the October 10, 1991, and November 7-8, 1991 EQC Meeting
- B. Director's Report (Oral Report)
- C. Commission Member Reports: (Oral Reports)
- Governor's Watershed Enhancement Board
- D. Approval of Tax Credit Applications

Rule Adoptions

NOTE: *Hearings have already been held on the 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.*

- E. Proposed Adoption of Rules for Mining Operations using Chemicals to Extract Metals from Ores
- F. Proposed Adoption of Increase in Solid Waste Tipping Fee as Required by SB 66
- G. Proposed Adoption of Rules to Establish the Process for Making Application to the Water Resources Department for Instream Water Rights for Pollution Abatement

Air
TOXICS

Other Items

~~{H. City of Brookings: Request for Approval of Wastewater Mass Load Increase}~~

- I. **Underground Storage Tank Financial Assistance: Proposed Adoption of Temporary Rules.**
- J. **Discussion: Eligibility of Agricultural Practices for Pollution Control Tax Credit Certification**

11:30 a.m. 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.

12:00 p.m. Discussion During Lunch

Update on the Efforts of the State Department of Forestry: Presentation by the Chair of the State Board of Forestry and the Director of the Department of Forestry

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 Thursday, January 23, 1992, in Portland, Oregon.

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

December 10, 1991

Approved _____
Approved with corrections _____
Corrections made _____

MINUTES ARE NOT FINAL UNTIL APPROVED BY THE EOC

ENVIRONMENTAL QUALITY COMMISSION

Minutes of the Two Hundred and Seventeenth Meeting
November 7-8, 1991

Work Session

The Environmental Quality Commission Work Session was convened at about 4:05 p.m. on Thursday, November 7, 1991, in Lecture Hall 2 at Smullin Center on the campus of Rogue Valley Medical Center, 2825 Barnett Road in Medford, Oregon. Commission members present were: Chair Bill Wessinger and Commissioners Henry Lorenzen, Carol Whipple, and Anne Squier. Also present were Larry Knudsen of the Attorney General's Office, Director Fred Hansen of the Department of Environmental Quality and Department staff.

NOTE: *Written materials presented at this work session, 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. Written materials submitted are incorporated into the minutes of the meeting by reference.*

Chair Wessinger called the Work Session to order to consider the single item on the Work Session agenda. He announced that this was to be a discussion between Commission and staff and that testimony would not be taken.

1. Continuation of Work Session Discussion of Proposed Rules for Mining Operations using Chemicals to Extract Metals from Ores

Director Hansen asked the Commission to give advise that would allow the Department to complete a final draft of the mining rules. He suggested that major issues included other agency roles, extent of monitoring during operations, and the extent of engineered protection including how close proposed rule requirements should be to the Hazardous Waste program requirements.

Lydia Taylor, Administrator of the Water Quality Division, handed out a three column table summarizing the provisions of the rules sent out to public hearing (labeled the 6/14 draft), the rules as presented for discussion at the October 10 work session (the 10/10 draft), and the recommendation of the Department (Recommended).

Jerry Turnbaugh of the Water Quality staff summarized the recommendation on liners as a return to the original 6/14 draft which called for a triple liner system. In response to questions from Commissioner Lorenzen, Mr. Turnbaugh noted that the three liner system is better able to detect leaks, but requires more care to keep from puncturing the liner. He noted that some believe the two liner system is not as likely to leak. He also noted that a leak in the two liner system is not as likely to be detected. Commission members stated that this was one of the key issues to be determined. Director Hansen indicated that this is a judgment call. The question is whether an extra level of opportunity to detect and correct a problem is provided before the environment is affected, or whether one relies more heavily on a cap. The Commission discussed the potential for monitoring and the potential for preventing and detecting leaks.

Commissioner Lorenzen recommended that the rules be drafted to require triple liners, unless another way is proposed to assure an equivalent level of monitoring (leak detection) below the liner system. The Commission members concurred with this suggestion.

The next issue discussed was wildlife protection. The Department recommendation was the same as the 10/10 draft which proposed to rely on the Department of Fish and Wildlife. Mr. Turnbaugh noted that HB 2244 requires the Department of Fish and Wildlife to address wildlife protection measures for mining operations. Commissioner Lorenzen asked what happens if Fish and Wildlife doesn't act. Lydia Taylor responded that the proposed rules require elimination of exposure or positive exclusion.

The Commission agreed that the proposed rules should defer to Fish and Wildlife on the issue of wildlife protection measures.

Commissioner Lorenzen then raised the issue of review of design, construction and operation and indicated he would like to have the rules specify third party review. The Commission discussed options for such review including the reviewer hired by DEQ, the reviewer hired by the mining company subject to approval of DEQ, or the ability of DEQ to remove the reviewer or levy penalties. Director Hansen noted that RCRA requires that an independent engineer oversee construction. Mr. Turnbaugh indicated that the Department had considered third party review of design, but not construction or operation. Commissioner Lorenzen stated that it adds comfort to have an independent professional stake their reputation on the plan.

The Commission agreed that the proposed rules should provide for independent review of design, construction, and operation.

Lydia Taylor indicated that the Department was recommending that the requirements for mill tailings be tightened up. The original draft proposed a performance standard. Now the

Department is proposing both a performance standard and two technologies -- removal/recycling of cyanide, and oxidation for greater stability.

The Commission agreed with the Department recommendation on tailings.

On the issue of testing, the Commission agreed with the recommendation to tie to the Hazardous waste requirements for testing to determine if the waste is hazardous, and managing the waste accordingly.

The Commission discussed the issue of seismic instability. Director Hansen noted that the proposal opts for some criteria for siting and assumes that facilities can generally be engineered to meet the site criteria. Lydia Taylor noted that existing groundwater criteria will have to be met. The Commission agreed with the Department recommendation.

On the issue of a variance provision, Lydia Taylor indicated that the variance provision in the original draft was eliminated in favor of an approach that will look at equivalent results in the plan review process. The Commission agreed with the proposal.

With respect to requirements for emergency ponds, Lydia Taylor advised that the requirements for emergency ponds were made less restrictive, and that if the ponds are planned to be used, they must be designed to the same standards as regular process facilities.

The next issue discussed was the monitoring after closure. Chair Wessinger asked how monitoring would be conducted after a mine was closed and the company gone. Mr. Turnbaugh indicated that requirements administered by DOGAMI include a bond to cover chemical processing and reclamation. He believed that monitoring could be covered under the bond. Commissioner Lorenzen indicated his desire to have parent corporations or the majority interest holder in the permittee to sign on to the permit to assure greater protection. Commissioner Whipple suggested the issue may be greater than just DEQ. Lydia Taylor indicated that the intent of the new legislation was to cover the broader picture. Commissioner Lorenzen said his interest was to have any parent corporations guarantee the post closure obligation.

The consensus of the Commission was sympathy with the desire of greater security from the parent company or companies to the permittee and that this option should be looked into further.

The final issue discussed was the open pit itself. Mr. Turnbaugh indicated that the rules call for assessment and have not been modified. There was no suggestion for modification.

There was no further discussion, and the work session was adjourned at 5:30 p.m.

Public Forum

A special Public Forum was convened by the Environmental Quality Commission at about 7:40 p.m. on Thursday, November 7, 1991, in Lecture Hall 2 at Smullin Center on the campus of Rogue Valley Medical Center, 2825 Barnett Road in Medford, Oregon. Commission members present were: Chair Bill Wessinger and Commissioners Emery Castle, Henry Lorenzen, Carol Whipple, and Anne Squier. Also present were Larry Knudsen of the Attorney General's Office, Director Fred Hansen of the Department of Environmental Quality and Department staff.

Chair Wessinger called the Public Forum to order by announcing that the purpose of the forum was for the Commission to hear the comments and concerns from the public in the area. He advised that speakers who signed registration forms would be allowed five minutes for presentations.

Hank Henry, Jackson County Commissioner, commented on three issues relating to air quality in Jackson County. He stressed that financial support is needed to support the woodstove curtailment plans for the area. He expressed support for the increase in the ventilation index from 200 to 400. He asked that orchardists be allowed to burn at 200 on green days in February for 2 years to allow time for development of an alternative. Finally, he encouraged the Commission to cooperate with the Forest Service on slash burning to minimize effects. He noted that it is a problem if woodstove use is required to be curtailed while slash burning is occurring.

Walter (Willie) Wassum, representing the Bear Creek Valley Sanitary Authority, advised the Commission that the Authority would be celebrating its 25 year anniversary in January and asked the Commission members to attend and participate.

James Dodson, representing the Oregon Woodheating Association, testified that wood particulate is good for the environment whereas pollutants from fossil fuel combustion are toxic and bad. He noted it was wrong for government to attempt to focus the attention on woodstoves. He also expressed the view that enforcement of woodstove ordinances constitutes taking without compensation. Finally, he commented that the red, green, and yellow day program is unfair.

Sue Densmore, representing Rogue Waste Systems, noted that they were providing curbside and solid waste collection in Jackson County. She expressed appreciation for the open communication with DEQ staff. She noted they were closing one disposal site, had lined the cell at Dry Creek, and want to work toward a regional disposal site at Dry Creek.

Jim Hill, representing the Medford Public Works Department, welcomed the Commission on behalf of the Medford City Council. Council members were meeting at the same time

and could not attend. He invited the Commission to visit the Medford Water Quality Control Plant.

David Bassett, P. E., representing the City of Medford Building and Safety Department, noted that he administers the woodstove program in the winter in Medford. They are entering their third season and continue working on elimination of wood as the sole source of heat in 200 homes. He stressed that a regional approach is needed in order to be successful.

Ronald Meyer, a pear grower in the Rogue Valley, testified that the disease control feature of the proposed rules is good. He commented on the problems that orchardists have in disposal of orchard prunings and trees when an orchard is removed for replanting. He noted that the rules will increase the costs for a business which is already marginal. He stated that he is chipping smaller materials now rather than burning. He has tried a chipper for larger material without much success, therefore he must resort to burning. He requested that the ventilation index be set at 200 for November and February and maintained at 400 in December and January. This would allow them to operate while they try to find an option to burning.

Paul Wyntergreen, representing the Southern Oregon Regional Office of Oregon Environmental Council, stated that he has been working on air quality issues in the area for quite some time. He noted that orchard removal is done at a bad time in relation to woodstove use curtailment. He indicated his belief that a chipping market can be developed in two years. He supported the uniform ventilation index in the proposed rules, and urged adoption of the open burning regulations. He stated his concern that the SIPs are based on assumptions with no margin of error in the calculations.

William Barbour expressed his concerns on slash burning controls and stated that there is a problem with the 20 mile boundary on non-attainment areas. He noted that less than a 50 mile boundary is inadequate, and broader plans are needed.

Vera Morrell, representing the Coalition to Improve Air Quality, noted that she had testified at the hearings on the agenda items. She stated that the boundaries of the area where vehicle emission inspection is required should be expanded to catch the "commuter shoppers". She stated she was proud of the woodstove response in the area and that other communities need to join in. She supported the orchardists as good neighbors most of the year. She supported the exemption, but not a change of the rules. She indicated that some industries do a good job while others need some increased enforcement attention. Finally, she stated that the 20 mile boundary is not large enough.

Scott Morris, representing WP National, noted that they had purchased the CP National natural gas utility and were working on conversion to natural gas. He noted they were working on a Compressed Natural Gas (CNG) fleet with Jackson County.

There were no further comments and the Public Forum adjourned at about 8:30 p.m.

Regular Meeting

The Regular Meeting of the Environmental Quality Commission was convened at about 9:05 a.m. on Friday, November 8, 1991, in the Auditorium at Smullin Center on the campus of Rogue Valley Medical Center, 2825 Barnett Road in Medford, Oregon. Commission members present were: Chair Bill Wessinger and Commissioners Emery Castle, Henry Lorenzen, Carol Whipple, and Anne Squier. Also present were Larry Knudsen of the Attorney General's Office, Director Fred Hansen of the Department of Environmental Quality and Department staff.

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. These written materials are incorporated into the minutes of the meeting by reference.*

Chair Wessinger called the meeting to order and indicated his intent to take the agenda in order.

A. Approval of Minutes of the July 24-25, 1991, August 22, 1991, and September 18, 1991, EQC Meetings

The minutes of the July 24-25, 1991, August 22, 1991, and September 18, 1991 EQC Meetings were forwarded to the Commission for review prior to the meeting.

It was MOVED by Commissioner Whipple that the minutes be approved as submitted. The motion was seconded by Commissioner Lorenzen and unanimously approved.

B. Director's Report (Oral Report)

Director Hansen reported to the Commission on items as follows:

Natural Resource Program Review (Governor's Task Force on State Government)

The Department made its presentation to the Natural Resource Program Review Committee on October 24. The Committee is looking at all Natural Resource agencies, including both programs and budgets. The Committee will develop recommendations on categories and ranking of critical programs, programs that should be maintained and programs that should be reduced or eliminated.

Hearing Authorizations

Rulemaking Hearing Authorizations have been approved by the Director for two rulemaking proposals since the last meeting of the Commission. After public hearings are held, these proposals will be brought to the Commission for adoption.

- 1) Title: SIP Amendments to (1) replace the Source Sampling Manual with an updated version, and (2) add a new Continuous Monitoring Manual.

This proposal would incorporate the two manuals into the SIP so that they are both federally enforceable and so that the SIP will be federally approvable.

- 2) Title: Interim Air Emission Fee Rules

These proposed rules would establish criteria and procedures to calculate air emissions and interim fees based on actual or permitted air emissions for calendar years 1991 and 1992. Facilities which are permitted to emit more than 100 tons per pollutant would be subject to the rules. The rules are in response to HB 2175 passed by the 1991 legislature.

Bond Moratorium Lifted For Mid-County

The State Treasurer has lifted the moratorium on selected state bonds which means that the Department will be able to sell Pollution Control Bonds for the Mid-Multnomah County sewer project. Bonds cannot be sold yet for the sewer safety-net or for Orphan Sites in the Environmental Cleanup Program.

Enforcement Update

The Department is putting together an Enforcement Advisory Committee to look at refinements of existing rules, such as classes of penalties. The committee also will assist the Department in developing model criminal enforcement authorities. The committee chair is Lewis and Clark Law School professor, Craig Johnson. The first meeting will be in December.

Salt Caves Suit

On July 7, 1988, the Department granted 401 Certification for the "low-dam" configuration of the Salt Caves Hydroelectric project. A coalition of environmental groups filed suit in circuit court challenging this certification decision. The City of Klamath Falls subsequently began to pursue a different configuration of the project -- referred to as the "no-dam" alternative.

DEQ received a letter dated November 4, 1991, from Richard M. Glick of law firm of Davis Wright Tremaine advising that the City has adopted the "no-dam" configuration as its plan for developing the Salt Caves Hydroelectric Project, has abandoned its plans to construct the "low-dam" configuration, and no longer requires the Department's certification granted on July 7, 1988.

Based on this notification, the Director advised the City of Klamath Falls in writing that the Department withdraws its July 7, 1988, certification for the project. This action will eliminate the Circuit Court proceeding that was to begin on November 12, 1991.

OreMet Appeal

Northwest Environmental Defense Center has filed a petition in Multnomah County Circuit Court seeking review of the Department Decision to issue a permit to OreMet Corporation.

DEQ/EPA Retreat

The Division Administrators will be meeting with top managers from EPA Region 10 on November 26.

Commissioner Castle stressed the importance of having the Director flag significant issues that may arise in relation to hearing authorizations so that the Commission can provide early input.

Commissioner Squier indicated she would like to have the Director suggest an approach to further discussions of the relationship between water quantity and water quality.

C. Commission Member Reports: (Oral Reports)

Commissioner Whipple reported that the Governor's Watershed Enhancement Board will be holding a conference in Portland in January. They expect attendance of approximately 500

people interested in watershed issues. She also noted that an effort is underway to review the GWEB process for funding and oversight of projects. A recent review revealed that some projects have not been completed as planned.

Special Item - Discussion of Motion Filed by the City of Klamath Falls to Reconsider the October 10 Decision on the \$401 Certification for the Salt Caves Hydroelectric Project

Chair Wessinger stated that a representative of the City of Klamath Falls was present and it would be appropriate to take up the matter of the City's motion for reconsideration. Chair Wessinger read from a letter from Larry Knudsen, Assistant Attorney General, advising the Commission of their options in the matter. Chair Wessinger announced that no argument from the parties would be heard and that the discussion would be among the Commission members only. He stated that he did not want to leave the City in the dark.

Commissioner Lorenzen began the discussion by stating that the October 10 decision had bothered him. He believed the wrong result was reached, and would favor reconsideration in hopes of changing the decision.

Commissioner Whipple stated that it was a tough call for her. She was uncertain of what reconsideration meant, but the notion of reconsideration appealed to her.

Larry Knudsen then advised on the procedural options that the Commission would have in a reconsideration process.

Commissioner Castle stated that he had no desire to reconsider the decision but would support reconsideration if any member wanted it. Commissioner Squier agreed with Commissioner Castle. Chair Wessinger stated that he wouldn't object, but wouldn't push for it.

Commissioner Lorenzen stated that his concern was on the intent behind the rule, and the flexibility of the Commission to apply the rule. Commissioner Whipple stated that her concern was more general. She noted that the Commission adopts and interprets the standards and that she needed to discuss the standards, the philosophy as it relates to the Commission's ability to interpret the standards.

Chair Wessinger asked Larry Knudsen about the action if the Commission wanted to reconsider. Mr. Knudsen advised the Commission on their options for procedures including considering the matter at a special meeting or at the December meeting. He also noted that they could hear arguments on whether to reconsider, or could decide to proceed with reconsideration. Similarly, if the Commission did not wish to reconsider, they could take action on a motion to deny reconsideration without hearing any arguments.

Commissioner Squier stated that she would like some advise from counsel on the range of flexibility the Commission has once there is understanding of the concerns of the Commission. She indicated that the discussions were causing her to question whether reconsideration would have benefit in terms of the end result.

Commissioner Lorenzen stated that what troubles him is that the wording of the rule is not ambiguous. He noted that a rule that is unambiguous is to be applied. He noted that in this case the rule refers to mixing zones that do not fit. His concern is that one must recraft the rule to make it fit. He also noted that the fact that the Boyle project is causing the standard to be violated is being ignored. His concern was in the exercise of interpretation.

Commissioner Castle noted that the discussion was getting dangerously close to the substance. He further noted that two of five members were uncomfortable with the previous decision and that was reason for reconsideration.

Commissioner Whipple asked about the effect of reconsideration upon appeal timelines. Larry Knudsen responded with details on the various appeal options and concluded that reconsideration would extend the ultimate appeal timelines.

Commissioner Squier asked for comments from counsel on the matter of framing the specific issue for any reconsideration. She was concerned that there may need to be oral argument from the parties to help frame the issues. Mr. Knudsen responded that the issue could be either narrowed at this time or the Commission could hear argument from the parties. Mr. Knudsen then explored potential questions the Commission could focus on including how the standard applies to hydro projects, and whether the temperature standard is a numeric criteria and how the standard is applied.

Commissioner Castle stated that if the matter is to be revisited, there is a need to step back and look at how the Commission views its standards, and how they apply to an individual project. Commissioner Whipple asked if reconsideration of this action would accomplish Commissioner Castle's purpose? Commissioner Castle suggested that it would be appropriate to look at the issue in the context of a particular application. Commissioner Squier asked if Commissioner Castle was seeing this as a separate activity that would precede reconsideration. Commissioner Castle responded that he saw it as an integral part of reconsideration. He noted that counsel had previously provided three options or theories that could pertain to the way the Commission views and applies its own standards. He wanted to be sure they could explore these options if there is going to be reconsideration in this case. Mr. Knudsen restated his understanding of the concern by noting that the Commission could decide if the rule applies, or could decide it applies, but there is a question about the proper interpretation of the rule. He noted that upon review by a higher court, the court will give some deference to the Commission's interpretation, but will make its own independent interpretation. Mr. Knudsen also indicated that a potential option is for

the Commission to adopt rule clarifications via the contested case process, however, that is difficult, and he would want the opportunity to brief the Commission on this before a determination was made to pursue such a process.

Chair Wessinger asked the Commission if they were ready to put a motion forward.

Commissioner Lorenzen MOVED that the decision be reconsidered. The motion was seconded by Commissioner Castle.

Commissioner Squier asked for clarification regarding the specific issue to be reconsidered. She suggested she would be more comfortable hearing from the parties first, and specifically framing the issue before a decision was made to go forward. She indicated she would vote no at this point because the issue for reconsideration is not framed.

Chair Wessinger asked Director Hansen to call the roll. The motion was approved with four yes votes and Commissioner Squier voting no.

Larry Knudsen asked for direction on how the Commission wished to proceed. Commissioner Lorenzen suggested that the parties be given the opportunity to submit in writing what they would frame as the issues. There was general agreement of the Commission that the reconsideration be limited to the temperature standard.

Commissioner Castle suggested that a special meeting be set soon to frame the issues. He noted that he wanted to study the record first. He felt that it needs to be narrowed beyond just application of the standard, which is too general.

The Commission decided to meet again on Tuesday, November 19th at 1:30 in the afternoon to frame the issues. The parties were given until close of business on November 15 to submit their written proposals for framing the issues, and those proposals should be served directly upon the Commission members by that time. Commissioner Squier suggested that notice of the special meeting should preserve the option for the Commission to finally decide the issue at that meeting.

A question was also raised about the potential for motion for reconsideration on other issues. An effort was to be made to seek a waiver of the time for other motions for reconsideration so that a final decision can be made.

Commissioner Squier noted that she received mail between the time of the decision and now and wished to disclose that she placed it in a file and did not read it. Mr. Knudsen urged the Commission to disclose any ex parte contacts so that parties could be given an opportunity to respond if appropriate by the time of the meeting on the 19th. He asked that any ex parte contacts be forwarded to Harold Sawyer to place in the record. Commissioner

Castle and Chair Wessinger stated that they had their material here and would provide it. Commissioner Squier stated that she intended to bring hers but was unable to locate it and assumed it was in her office. Commissioner Lorenzen indicated he did not have his with him.

The discussion of Salt Caves was concluded and the Commission proceeded with the rest of the agenda.

D. Approval of Tax Credit Applications

The Department recommended that approval be granted on Pollution Control Facility Tax Credit Applications as follows:

TC-3488	Gregory Forest Products, Inc.	Secondary Containment System.
TC-3528	Teledyne Industries, Inc.	Secondary Containment System.
TC-3529	Teledyne Industries, Inc.	Transfer and Containment System.
TC-3531	Teledyne Industries, Inc.	Transfer and Containment System.
TC-3575	Atlantic Richfield Company	Installation of four double wall fiberglass tanks and piping, interstitial monitoring, spill containment basins, Stage I and II vapor recovery equipment and piping, automatic shut off valves and continuous leak detection monitoring in piping.
TC-3576	Atlantic Richfield Company	Installation of four double wall fiberglass tanks and piping, interstitial monitoring, spill containment basins, monitoring wells, Stage I and II vapor recovery equipment and piping and automatic shut off valves.
TC-3585	Bear Creek Operations, Inc.	Installation of leak detection for an underground storage tank in the form of a vapor monitoring well system.
TC-3586	Bear Creek Operations, Inc.	Installation of a vapor monitoring well system on four unregulated heating oil tanks.
TC-3587	Bear Creek Operations, Inc.	Installation of leak detection for an underground storage tank in the form of a vapor monitoring well system.

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TC-3588	Bear Creek Operations, Inc.	Installation of leak detection for an underground storage tank in the form of a vapor monitoring well system.
TC-3589	Bear Creek Operations, Inc.	Installation of leak detection for an underground storage tank in the form of a vapor monitoring well system.
TC-3590	Bear Creek Operations, Inc.	Installation of leak detection for an underground storage tank in the form of a vapor monitoring well system.
TC-3591	Bear Creek Operations, Inc.	Installation of leak detection for one regulated oil tank and one unregulated lime sulphur tank in the form of a vapor monitoring well system.
T-3599	Lee's Shell Service	Automobile air conditioner coolant recycling machine.
T-3600	Jomae Inc. dba Star Bodyworks	Automobile air conditioner coolant recycling machine.
T-3601	Sandy Auto Body, Inc.	Automobile air conditioner coolant recycling machine.
T-3603	Oregon Rootstock & Tree Co., Inc. dba TRECO	Automobile air conditioner coolant recycling machine.
T-3604	Alto Automotive, Inc. dba Six Corners Chevron	Automobile air conditioner coolant recycling machine.
T-3605	Crater Lake Chevron	Automobile air conditioner coolant recycling machine.
T-3609	Lavia Enterprises dba Front St. Automotive	Automobile air conditioner coolant recycling machine.
T-3610	Sargent Automotive	Automobile air conditioner coolant recycling machine.
T-3612	A.J.'s Auto Repair	Automobile air conditioner coolant recycling machine.
T-3614	Ernst Hardware Co., Inc.	Automobile air conditioner coolant recycling machine.
T-3615	TNT Reddaway Truck Line	Automobile air conditioner coolant recycling machine.
T-3616	Nine T Nine Towing, Inc.	Automobile air conditioner coolant recycling machine.
T-3620	Baird's Auto Repair	Automobile air conditioner coolant recycling machine.
TC-3621	Ditchen Bros.	Straw storage shed.

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T-3622	Jim Arendell's Arco Service Center, Inc.	Automobile air conditioner coolant recycling machine.
T-3623	Nu Way Body & Fender Works, Inc.	Automobile air conditioner coolant recycling machine.
T-3624	Marshall Darris Jr., dba Darris Tire & Automotive Service	Automobile air conditioner coolant recycling machine.
T-3625	Decker's Radiator	Automobile air conditioner coolant recycling machine.
T-3626	Dustin's Mechanical Repair & Fabricating	Automobile air conditioner coolant recycling machine.
T-3627	Brad's Body & Fender Service, Inc.	Automobile air conditioner coolant recycling machine.
T-3628	Cascade Tractor Co.	Automobile air conditioner coolant recycling machine.
T-3629	Sharp Autobody & Paintworks, Inc.	Automobile air conditioner coolant recycling machine.
T-3630	Scholls Ferry Chevron	Automobile air conditioner coolant recycling machine.
T-3631	Williams' Bakery	Automobile air conditioner coolant recycling machine.
T-3632	Les & Terry's Chevron Service, Inc.	Automobile air conditioner coolant recycling machine.
T-3633	DuFresne's Auto Service, Inc.	Automobile air conditioner coolant recycling machine.
T-3634	C & W Auto Body, Inc.	Automobile air conditioner coolant recycling machine.
T-3635	Cleveland Auto Repair, Inc.	Automobile air conditioner coolant recycling machine.
TC-3636	J.S.G., Inc.	John Deere #555 Disk
T-3637	Cone's Automotive	Automobile air conditioner coolant recycling machine.
T-3638	Tool Box	Automobile air conditioner coolant recycling machine.
T-3639	Rexius Forest By-Products, Inc.	Automobile air conditioner coolant recycling machine.
T-3640	Koble's Automotive Service	Automobile air conditioner coolant recycling machine.
T-3641	Mike O'Hara Service	Automobile air conditioner coolant recycling machine.

T-3642	Chuck Barber, Inc. dba Chuck's Body & Fender	Automobile air conditioner coolant recycling machine.
T-3645	Northwest Truck & Equipment Repair, Inc.	Automobile air conditioner coolant recycling machine.
T-3646	Metro Tire & Auto Repair	Automobile air conditioner coolant recycling machine.

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

E. Proposed Adoption of Air Contaminant Discharge Permit Fee Rules Amendments

This agenda item proposed adoption of rule amendments to increase the fees for Air Contaminant Discharge Permits as presented in Attachments A and B of the staff report. The proposed fee schedule, effective upon adoption, would generate \$2.5 million for the biennium and is consistent with the legislatively approved budget. Public Hearings were held in Medford, Bend, and Portland near the end of August. No oral testimony was presented. Written comments were received from five persons.

Wendy Sims of the Air Quality Division staff advised the Commission that the increased fees are essentially the same as the fees adopted earlier under temporary rules. The only significant change is the addition of a provision allowing sources which are experiencing prolonged closure to pay a reduced annual compliance determination fee.

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

F. Proposed Adoption of Rules to Increase the Vehicle Inspection Program Fees

This agenda item proposed adoption of rule amendments to increase the fees charged for vehicle emission certification. The proposed rule amendments were presented in Attachment A of the staff report. Fees would be increased from \$7 to \$10 to perform the test and issue a certificate. Fleet self inspection certificate costs would go from \$3 to \$5. Statutory authority allows the Commission to establish the fees up to a \$10 limit. The existing fees were established in 1981 and are not longer adequate to cover program costs. In addition, replacement of equipment is necessary. Hearings were held on the proposed rules in Portland and Medford in the middle of September.

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

G. Proposed Adoption of Rules Relating to Waste Tires

This agenda item requested adoption of rule amendments to implement changes in the waste tire statutes adopted by the 1991 legislature. The proposed rules were presented in Attachment A of the staff report. The rules implement HB 2246 from the 1991 legislative session which sunsets the \$1.00/tire fee on September 30, 1992, and the reimbursement portion of the program on June 30, 1992. The rules also implement the ban on landfilling of whole tires in SB 66 from the 1991 session. The rules also contain some housekeeping provisions. Hearings of proposed rules were held in Portland, Springfield, Klamath Falls and Ontario during the middle of September.

Commissioner Wessinger asked about the impact of the sunset on the future of the program. Director Hansen replied that there could be an impact on future markets for the tires and on future cleanup and enforcement activities. Commissioner Whipple asked if tractor tires are included in the ban and was advised that they are not.

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

H. Proposed Adoption of Rules to Establish Program Administration and Compliance Fees for Oil Spill Prevention Act (SB 242)

This agenda item proposed adoption of rules establishing a fee schedule to implement the program administration and compliance provisions of SB 242. The proposed rules were presented in Attachment A of the staff report. The rules would establish a fee of \$3,000 per year for oil storage facilities and a fee of \$650 per trip for self-propelled tank vessels. The revenues from these fees and other statutory fees will fund the costs of review of vessel and facility oil spill prevention and emergency response plans, annual compliance certification of the plans, inspections of the vessels and facilities, and exercises of the approved plans. A hearing was held on the proposal in Portland on October 1. In response to testimony, the fee for self-propelled tank vessels was changed to a per trip fee rather than an annual fee.

Bruce Sutherland of the Water Quality Division staff summarized the highlights of the proposed rules. He noted in response to a question from the Commission that the ability of DEQ to respond to a spill is improving, but there are still gaps. Lydia Taylor noted that the Legislature has funded "spill prevention program", but did not fund a "spill response program". Director Hansen noted that in cooperation with SOLV (Stop Oregon Litter and Vandalism), 700 volunteers were recently trained to assist in spill response. Director Hansen also noted that these rules only adopt fees for the program. The Department will

return with prevention plan rules following their development with the assistance of an advisory committee.

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

Overview of Air Quality Agenda Items

John Kowalczyk of the Air Quality Division staff then presented a brief overview of Agenda Items I, J, K, L, M, N, O, and P.

John Core of the Air Quality Division staff briefed the Commission on the status of discussions on the update of the Slash Burning Smoke Management Plan. This plan update will be presented to the Commission for approval at a later date, but is related to the agenda items to be considered at this meeting. He noted that the Oregon Department of Forestry controls all slash burning on federal, state and private lands in western Oregon under mandatory program provisions. Slash Burning in the Klamath Falls, Bend, and La Grande areas are under a voluntary control program. The Smoke Management Plan is a joint plan of DEQ and the Department of Forestry. The plan was last updated in January 1987. The Smoke Management Plan Advisory Committee is active in the process of developing an updated plan.

Mr. Core identified several new elements that are being incorporated in the plan including establishment of a protection zone around non-attainment areas, prohibiting burning on "red" days (usually December through February 15), require mop-up of smoldering piles, and allowing burning only if there is no chance of impact. Contingency plan provisions would include broadening the boundaries of the protection zone, and mandatory programs in the Klamath Falls and La Grande areas.

I. Proposed Adoption of Amendments to Existing Industrial Rules that Affect PM₁₀ Nonattainment Areas (New Contingency Emission Standards and Housekeeping amendments)

This agenda item proposed adoption of new and amended industrial PM₁₀ emission standards and other housekeeping rule revisions that are necessary to implement control strategies for PM₁₀ nonattainment areas required under the 1990 Clean Air Act. The proposed rule amendments to Divisions 20, 25, 30, and 31 of Chapter 340 of Oregon Administrative Rules are presented in Attachment A of the staff report. Hearings on the proposed rules were held between September 26 and October 1 in Klamath Falls, Grants Pass, Medford, La Grande, and Portland. As a result of hearing comments, the proposed rules were revised. A

summary of the revisions was presented in Attachment J of the staff report. The Department originally proposed combined RACT/BACT emission limits. As a result of testimony, the Department recommended separating the requirements, with RACT being established as contingency measures with 30 month compliance schedules.

Andy Ginsburg of the Air Quality Staff presented a summary of the agenda item. In response to a question from Commissioner Squier, John Kowalczyk noted that the Department was not taking credit in the strategy for the slash burning and open burning control elements. Therefore, they become an added contingency factor. Director Hansen noted that contingency plans are a new requirement in the Amended Federal Clean Air Act.

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

J. Proposed Adoption of New Rules Relating to Wood Stoves and Residential Wood Heating to Address PM₁₀ Air Quality Problems

This agenda item proposed adoption of new rules and rule amendments relating to wood stoves and residential wood heating as presented in Attachment A of the staff report. The proposed rules incorporate new residential wood heating emission control requirements from House Bill 2175 into the State Implementation Plan to meet Clean Air Act requirements for PM₁₀ control strategies. The proposed rules also consolidate all rules relating to wood heating into a new Division 34 of Oregon Administrative Rules Chapter 340. Hearings were held between September 26 and October 1 in Klamath Falls, Medford, Grants Pass, La Grande, and Portland.

Merlyn Hough of the Air Quality Staff summarized the agenda item. Commissioner Squier asked if typographical errors can be corrected after the Commission adopts a rule. Larry Knudsen responded that they could. Commissioner Whipple asks who makes the determination regarding sole source of heating. Mr. Hough responded that the local building department makes the determination. Director Hansen noted that implementation and control is left to the local government as long as compliance can be achieved.

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

K. Proposed Adoption of Open Burning Rule Amendments for the Rogue Basin Special Control Area

This agenda item proposed adoption of amendments to the open burning rules for the Rogue Basin. The proposed rules were presented in Attachment A of the staff report. The proposed rules impose a ban on open burning in the entire open burning control area during November, December, January and February if the Medford-Ashland or Grants Pass area fails to meet standards for PM_{10} by December 31, 1994. Hearings were held at the same times and locations as the previous agenda items. As a result of hearing testimony, the Department proposed a temporary relaxation of the ventilation index from 400 to 200 during the months of February 1992 and February 1993 to allow greater opportunity to burn orchard prunings while alternatives are being developed.

Merlyn Hough summarized this item for the Commission. He noted that a four month ban is included under the contingency plan.

It was MOVED by Commissioner Lorenzen that the Department recommendation be approved. The motion was seconded by Commissioner Whipple. Before a vote was taken, the chair called on Dr. Bob Palzer who had signed up to testify.

Dr. Bob Palzer, representing the Coalition to Improve Air Quality, recommended addition of language to the proposed rule to establish criteria on the use of fire to control disease in orchards. He suggested that the Extension Service could aid in defining the specific diseases what were appropriate to treat with fire. Merlyn Hough indicated the Department was working on some language to accomplish Dr. Palzer's suggestion.

The Commission decided to move on and come back to consider this item and the proposed additional language later. (See following agenda item L.)

L. Proposed Adoption of PM_{10} Control Strategy for the La Grande Air Quality Nonattainment Area

This agenda item proposed adoption of the PM_{10} Strategy for the La Grande Nonattainment Area. Adoption is needed to meet the current Clean Air Act requirements. The proposed rules were presented in Attachment A of the staff report. The proposed strategy includes specific Reasonably Available Control Measures (RACMs) and a contingency plan. A hearing was held in La Grande on October 1.

Brian Finneran of the Air Quality Staff presented this agenda item. He noted that in response to EPA comments, the strategy was modified. Modifications included moving industrial controls from the contingency measures to the attainment strategy.

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

Return to Item K.

The Commission then returned to Item K. Larry Knudsen read the wording of a new definition that would be proposed for addition as an amendment to OAR 340-23-030 as follows:

(15) "Disease and pest control" means open burning of agricultural waste infected or infested with a disease or pest for which no other practicable control exists. Pests or diseases for which no practicable control alternative exists shall include only those pests and diseases identified by the County Extension Service or Oregon Department of Agriculture.

A SUBSTITUTE MOTION was offered by Commissioner Lorenzen that the Department recommendation on Agenda Item K with the amendment read by Mr. Knudsen be approved. The motion was seconded by Commissioner Whipple and unanimously approved.

M. Proposed Adoption of Revised PM₁₀ Control Strategy for Grants Pass

This item proposed adoption of a revised PM₁₀ Control Strategy for Grants Pass to meet the new requirements of the Clean Air Act. The proposed strategy includes specific Reasonably Available Control Measures and a contingency plan. Hearing was held in Grants Pass on September 27. The proposal taken to hearing was modified to be consistent with changes made in prior agenda items.

Merlyn Hough presented this agenda item. Commissioner Whipple asked if there was a potential problem in funding for local programs. John Kowalczyk responded that the Department would have to find the funds to implement the strategies if the local governments are unable to. If this is not done, the strategy would fail.

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

N. Proposed Adoption of Revised PM₁₀ Control Strategy for the Klamath Falls Air Quality Nonattainment Area

This agenda item proposes adoption of Revised PM₁₀ Control Strategy for the Klamath Falls Nonattainment Area to meet new Clean Air Act requirements. The proposed rules were presented in Attachment A of the staff report. The proposed strategy includes specific Reasonably Available Control Measures (RACMs) and a contingency plan. RACM provisions of the recently adopted Klamath County Clean Air Ordinance have been incorporated into the strategy. Hearing was held in Klamath Falls on September 26.

John Core presented this agenda item. John noted that the industrial rules were revised to change the phasing of RACT/BACT as discussed in a previous agenda item.

Jim Keller, representing the City of Klamath Falls, testified that the City supports the proposed revised strategy. He noted that the City would like to look at alternatives to the contingency measures.

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

O. Proposed Adoption of Revised PM₁₀ Control Strategy for the Medford-Ashland Air Quality Maintenance Area

This agenda item recommended adoption of Revised PM₁₀ Control Strategy for the Medford-Ashland Air Quality Maintenance Area (AQMA) as presented in Attachment A of the staff report. The proposed revised strategy includes specific Reasonably Available Control Measures (RACMs) and a contingency plan. Hearing was held at the same time and location as hearings on previous agenda items.

Merlyn Hough summarized this agenda item for the Commission.

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

P. Proposed Adoption of Revised PM₁₀ Control Strategy for the Eugene/Springfield Area

This agenda item proposed adoption of the Revised PM₁₀ Control Strategy for the Eugene-Springfield Nonattainment Area as presented in Attachment A of the staff report. The strategy was developed and adopted by the Lane Regional Air Pollution Authority (LRAPA).

LRAPA held hearings on behalf of the EQC on October 1, 1991. The revised strategy incorporates contingency measures into the SIP.

Andy Ginsburg summarized this agenda item. Don Arkell, representing Lane Regional Air Pollution Authority (LRAPA) explained how they work with the Department and with Eugene.

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

Commissioner Squier complimented the staff on the impressive quality of the staff work presented.

Other Business

The Commission then established the schedule for future meetings as follows:

December 13, 1991	(Friday)	
January 23, 1992	(Thursday)	
March 12, 1992	(Thursday)	
April 23, 1992	(Thursday)	
June 1, 1992	(Monday)	
July 23-24, 1992	(Thursday-Friday)	Hold both days open.
September 9, 1992	(Wednesday)	
October 15-16, 1992	(Thursday-Friday)	Hold both days open.
December 10-11, 1992	(Thursday-Friday)	Hold both days open.

A time for a retreat with staff remains to be schedule in December or January.

There was no further business and the meeting was adjourned at 1:15 p.m.