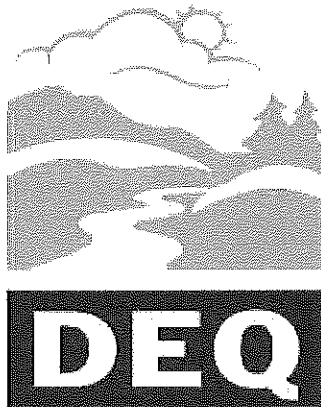


**OREGON  
ENVIRONMENTAL QUALITY  
COMMISSION MEETING  
MATERIALS 10/29/1993**



**State of Oregon  
Department of  
Environmental  
Quality**

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# Notice

ENVIRONMENTAL QUALITY COMMISSION  
DEPARTMENT OF ENVIRONMENTAL QUALITY

Thursday, October 28, 1993  
9:00 a.m. to 4:00 p.m.

Menucha Retreat and Conference Center (Greenhouse)  
38711 East Crown Point Highway  
Corbett, Oregon 97019

The Environmental Quality Commission will meet with Senior Staff of the Department of Environmental Quality for informal discussions. The Commission will not be deliberating toward a decision on any issue.

Topics planned for discussion include but are not limited to the following:

- Discussion of limits on EQC authority placed by Federal delegated programs.
- Example of a typical Department staff discussion of a substantive program issue.
- Example of a typical Department staff discussion of an internal management issue.
- Discussion of what the future holds for environmental protection efforts.



# A G E N D A

## ENVIRONMENTAL QUALITY COMMISSION MEETING

October 29, 1993

DEQ Conference Room 3a

811 S. W. 6th Avenue

Portland, Oregon

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**Friday, October 29, 1993: Regular Meeting beginning at 8:30 a.m.**

*Notes:*

*Because of the uncertain length of time needed for each agenda item, the Commission may deal with any item at any time in the meeting. If a specific time is indicated for an agenda item, an effort will be made to consider that item as close to that time as possible. However, scheduled times may be modified if agreeable with participants. Anyone wishing to be heard or listen to the discussion on any item should arrive at the beginning of the meeting to avoid missing the item of interest.*

*Public Forum: The Commission will break the meeting at approximately 11:30 a.m. for the Public Forum if there are people signed up to speak. The Public Forum 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.*

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- A. Approval of Minutes
- B. Approval of Tax Credit Applications
- C. †Rule Adoption: Revisions to Stationary Source Air Quality Emission Standards and Requirements [New Source Performance Standards (NSPS), National Emission Standard for Hazardous Air Pollutants (NESHAPS), Highest and Best Practicable Treatment and Control (H&B), and New Source Review (NSR)]
- D. †Rule Adoption: Revisions to the Motor Vehicle Fuel Specifications for Oxygenated Gasoline
- E. †Rule Adoption: Vehicle Inspection Program Implementation Plan Revisions

- F. Proposed Adoption of Temporary Rules for the New Air Quality Federal Operating Permit Program to Establish: (1) Permit Fees, and (2) Asbestos Inspection Requirements
- G. Proposed Adoption of Temporary Rule to Amend Rules for Municipal Solid Waste Landfills to Extend the Effective Date of Federal Criteria
- H. Proposed Adoption of Temporary Rule to Limit Underground Storage Tank Financial Assistance to Essential Service Grants of 75%, not to Exceed \$75,000
- I. Proposed Bond Issuance Resolution for Series 1994 A, B, and C Pollution Control Bonds
- J. Pulp Mill Contested Case: Status Report and Proposed Order Extending the November 30, 1993, Deadline for Holding a Commission Hearing to Establish the Scope of Issues to be Addressed Upon Reconsideration
- K. Information Item: Willamette River Basin Water Quality Study
- L. Information Item: Legislative Followup Requirements
- M. Commission Member Reports (Oral)
- N. Director's Report (Oral)

*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.*

*The Commission has set aside December 9-10, 1993, for their next meeting. The location has not been established.*

*Copies of staff reports for individual 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.*


*If special physical, language or other accommodations are needed for this meeting, please advise the Director's Office, (503)229-5395 (voice)/(503)229-6993 (TDD) as soon as possible but at least 48 hours in advance of the meeting.*

*October 19, 1993*

State of Oregon  
Department of Environmental Quality

Memorandum

Date: October 22, 1993

To: Environmental Quality Commission  
From: Fred Hansen   
Subject: October 28 EQC/DEQ Retreat

Attached is the agenda for the retreat. As you will note, there are three distinct areas of retreat topics. First is a relatively straight forward type of item that is typical of past retreats. This is proposed to be a discussion of the general issue of interpretation and application of rules, and the limits on EQC flexibility imposed by federal requirements, rule language and court rulings. The most recent issue discussed by the Commission in this regard was the Anodizing, Inc. variance request. I have asked both Michael Houston and Harold Sawyer to prepare the attached memorandum as background and to initiate and to lead the discussion on this subject.

Our second main retreat agenda item is really broken down into two different topics. Within the Department, when we are discussing alternative approaches to substantive problems or management issues, we engage in free-wheeling debate. I and other managers and staff have often remarked that it would be great to have the EQC present and participate in the discussion rather than only be involved at the end when a proposal is presented for rule adoption or other EQC final action. To facilitate this, we have chosen one substantive and one internal management topic for a typical discussion. For each topic, we would like you to observe the staff debate during the first half hour, and then join in the discussion during the second half hour. The goal is not to limit your part of the discussion to a half hour but to have the first half hour of staff discussion give you a sense of the issue. Again, this portion of the retreat is to give the Commission a chance to witness and participate in the typical type of give and take we have internally at the Department as we develop proposals.

The third category for the retreat discussion is to think creatively about the nature of environmental protection efforts during the decade ahead. From this broader discussion, I would expect us to identify issues which will form the basis for our budget and legislative proposals for the next biennium. Although our retreat will be a little less than a week before the vote on Ballot Measure 1 takes place, we assume there will be no additional General Fund revenues and that we will be seeing necessary cuts. It is within that context that we will need to define ways to maximize environmental benefits, reduce costs and find the most effective and efficient ways to deliver environmental protection.

Page 2  
October 22, 1993

To kick off the "rest of the decade" discussion, I propose that we look at several programs that have occurred outside of the normal regulatory efforts but which are producing significant environmental benefits. Those programs are the voluntary toxic use reduction goals of 33-1/3 percent by 1992 and 50 percent by 1995 initiated by then EPA Administrator Reilly; the Project Green Lights initiated by the EPA, that encouraged energy conservation through replacing existing light bulbs with high efficiency, low energy bulbs; and our own proposal for environmental teams which will bring environmental regulators to small communities to help them prioritize their responsibilities and develop a plan to achieve compliance. The purpose of bringing up these examples is to stimulate discussion of new approaches. I trust they will also provide fodder as we look at goals for the 1995-97 biennium.

/ko

Attachments: Agenda  
Sawyer/Huston Memorandum  
33/50 Program  
Greenlights

State of Oregon  
Department of Environmental Quality

Memorandum

Date: October 21, 1993

**To:** Environmental Quality Commission  
**From:** Michael Huston and Harold Sawyer  
**Subject:** Application of Standards

This memorandum provides background information for a Commission/Staff discussion at the retreat on October 28, 1993, of options available to the Commission for providing flexibility in the application of standards in specific cases.

**Concern:** On occasion, application of the statutes and rules may appear to mandate a result that is perceived to be *unacceptable* [e.g. in conflict with environmental goals, counterproductive, unfair, inequitable in relation to other sources, uncomfortable; etc.].

**Question:** How much latitude does the Commission have to exercise discretion in interpreting the statutes and its rules to minimize a result which it considers to be *unacceptable*?

There is no simple answer to the question posed. Factors involved include the specific environmental program involved, the nature of the federal and state statutes for the particular program, the wording of the Commission's rules for the particular program, and the direction of court decisions that guide interpretation of both statutes and rules.

**General Background Observations:**

- Statutes provide the overall framework for environmental regulation.
  - Statutes provide the source of authority for and limitations on EQC action. As a state body, the EQC only has the authority expressly stated or necessarily implied by statute.
  - Statutes specify requirements and limitations.
  - Statutes provide policy direction to guide EQC rulemaking.
  - Statutes have gotten progressively more detailed and specific (and thus less flexible) over the last several decades.
  - The historic broad general grant of power to the EQC reflected in statutes is gradually being restricted by the more detailed legislative direction.

- Federal laws and program delegation requirements may effectively limit flexibility available under state statutory authority.
- EQC Rules have evolved over several decades.
  - In 1962, the total rule package for what is now the EQC was 18 pages long, covering air and water pollution control.
  - In 1993, the total rule package is about 3" thick.
  - The EQC adopted rules have gotten progressively more detailed and less flexible over time. This is in part dictated by federal requirements, and in part by more detailed and limiting state legislation. The public and the regulated community also are increasingly asking for rules which clearly lay out all of the requirements (without so much need for agency interpretation).
  - Many EQC rules have been submitted to EPA for review and approval pursuant to federal requirements or program delegation requirements. Modifications of such rules may also require federal review and approval.
- Court interpretations of statutes and rules suggest that:
  - absolute standards must be applied absolutely.
  - when the EQC retains flexibility in its rules, it usually must have some criteria to guide the exercise of that flexibility.
  - courts tend to defer to agency judgment on highly technical issues.
- Preserving flexibility has many inherent and competing pros and cons:
  - On the plus side, flexibility can help avoid irrational or unduly rigid decisions, reduce the need for constant rulemaking, and allow the EQC to tailor a decision best suited to the particular facts.
  - On the minus side, flexibility can lead to arbitrary and inconsistent decision making, can leave the public and regulated community without clear guidance, and can make the EQC's decision making much more complicated and time consuming in individual cases.

### **Traditional Approaches for Providing Flexibility in Application of Standards**

There are four different ways commonly used to preserve discretion in the application of standards.

1) Statutory Authority for Variances or Waivers.

When the statute allows the opportunity for a waiver or variance to be given, the standards themselves can be established in fairly absolute terms. Typical examples of this are air quality standards and standards for on-site sewage disposal systems. In both cases, the standards adopted by the Commission by rule are fairly absolute. Both sets of standards are fairly detailed and rigid. Yet both are also effectively modified by statutory provisions allowing the EQC to grant variances.

For air quality, ORS 468A.075 allows variances from standards if: conditions exist which are beyond persons control; special circumstances render strict compliance unreasonable, burdensome or impractical; strict compliance would result in curtailment or closing down of operation; or no alternative facility or method of handling is available. If the Commission grants a variance, it may be necessary to also adopt specific revisions to the federally mandated State Implementation Plan (SIP) and secure EPA approval of the SIP revision.

For on-site sewage disposal systems, ORS 454.657 allows EQC to grant variances from standard if strict compliance is inappropriate for cause or because special physical conditions render strict compliance unreasonable, burdensome or impractical. For variances in cases of extreme and unusual hardship, some factors which are to be considered are: advanced age or bad health of applicants and the relative insignificance of environmental impact of granting variance.

Attachment A contains a summary of the statutory variance authorities for the various environmental programs DEQ administers.

2) Variance Authority Written into Each Specific Standard

Specific standards can be written so as to appear to be fairly absolute, but provide interpretation leeway through some form of a variance or exception process built into the standard itself.

An example of this is the water quality toxic standards. The levels for toxics was an adoption of EPA's standards and is set out by numerical standard in Table 20 of OAR 340, Division 41. The criteria applies unless "data from scientifically valid studies demonstrate that the most sensitive designated beneficial uses will not be adversely affected by exceeding a criterion or that a more restrictive criterion is warranted to protect beneficial uses." (language included in each

basins toxic substances section -(p)(C)). The ongoing contested case hearing on pulp and paper mill permits focused, in part, on interpretation of this exception.

3) Numerical vs. Narrative Standards.

Numerical standards tend to leave no discretion, unless there is variance authority or additional language which tempers the absoluteness of the standard. Narrative standards, on the other hand, tend to leave more room for judgment when applied in permit and other determinations.

By way of illustration, we can compare the Oregon and Washington Water Quality standards for toxic substances. As stated above, Oregon adopted the EPA numerical standards, covering over 100 compounds. The numerical standards without qualifying language would allow for practically no discretion. Even with the qualifying language, there must be a showing that such a standard is not needed in a particular instance.

Washington, on the other hand, has specified criteria for only 25 compounds. For non-listed toxics, the appropriate level is to be determined by considering EPA's standards (which Oregon adopted) and "other relevant information as appropriate." (WAC 173-201-047(3)). Further narrative provides that toxics should not be above natural background levels where: characteristic water uses might be adversely affected; acute or chronic conditions to the aquatic biota might be caused; or where public health might be adversely affected.

4) General Policy Which Allows Override of Specific Standards.

This approach is an adaptation to the approach of 2) above. Rather than building exception authority into each standard to provide the desired flexibility, a more general exception process would be established as an overriding general policy. Such language might read "The Commission retains authority to waive the applicability of specific standards in specific cases if it finds that beneficial uses will be protected and the overall policies of state and federal law would not be violated."

Prior Agency Practice

The phrase "standards" commonly refers to a broad and diverse range of legal considerations. In some cases, it refers to fairly technical and objective scientific criteria, such as dissolved oxygen, opacity or temperature. In other cases, the "standard" may



actually be a broadly expressed narrative standard, such as the protection of beneficial uses or the policy of antidegradation. When the EQC has adopted rules, the degree of discretion it preserved often depended upon the nature of the standard in question. In addition, many of the rules predated the major federal environmental statutes and subsequent court developments.

Thus, when adopting technical criteria for which there was a fairly sound scientific basis, it was not uncommon for the EQC to adopt a rule in absolute terms that preserved little or no administrative latitude. At least three assumptions supported this approach. First, it was assumed that rules could always be revised as the underlying science evolved. That was the function of regular rule revision such as the triennial review now mandated by the Federal Clean Water Act for water quality standards. Second, it was assumed that specific and objective standards were easier to administer and, in many cases, were even preferred by the regulated community. Third, it was assumed that when an absolute standard worked a hardship or otherwise proved impractical that the agency could use its "prosecutorial discretion" not to penalize violators.

While some aspects of these assumptions continue to hold true, others do not. The assumed flexibility in applying standards has been greatly eroded by several factors. Perhaps most importantly, the EQC and DEQ have consciously revised their enforcement policy to limit case-by-case discretion. While the policy preserves some discretion as to the amount of a penalty, it nonetheless generally assumes that some form of enforcement action shall be taken for each violation of a standard. Also, of importance, the recent federal environmental statutes have authorized citizen suits against violators. Thus, the regulated community finds itself subject to potential litigation and sizable penalties, even in a situation where DEQ might choose not to act. Another change in assumptions has been worked by the fairly recent anti-backsliding provision of federal law, especially the Clean Water Act. These provision limit the agency's ability to relax standards in some circumstances, particularly when the standards have already been applied and met.

In contrast to the technical criteria are the narrative policies. A useful example is Oregon's longstanding and bold water quality policy that generally requires that:

"growth and development be accommodated by increased efficiency and effectiveness of waste treatment and control such that measurable future discharged waste loads from existing sources do not exceed presently allowed discharged loads...." OAR 340-41-026(2).

The environmental benefits of this policy are probably unquestionably significant, but the EQC has nonetheless struggled on occasion about how rigidly the policy should be applied. As originally formulated, the policy could be waived at any time through

language that broadly stated "unless otherwise specifically approved by the EQC." Similar open-ended exceptions were commonly used by the EQC in nearly all program areas.

Such exceptions obviously preserve maximum discretion for the EQC, but they also raise an increasing number of administrative and legal concerns. On the administrative side, a policy with an open-ended exception does very little to inform the regulated community or the general public what the state's position will be in any given case. It also leaves the EQC without meaningful criteria to apply in determining when an exception is warranted. The result is often lengthy and unproductive debates with unpredictable outcome. On the legal side, the courts have also grown increasingly impatient with totally ad hoc application of policy by administrative agencies. Under modern case and statutory law, it is very possible that a court will strike down a decision made without meaningful standards, particularly in the context of granting or denying individuals permits or licenses. *See, e.g.* Megdal v. Board of Dental Examiners, 288 Or 293, 313-314, 605 P2d 273 (1980); Marbet v. Portland General Electric, 277 Or 447, 459-464, 561 P2d 154 (1977).

It was, in part, these very concerns that led the EQC to revisit its rule on accommodating new growth. The revised rule now sets forth the specific criteria which the EQC will consider in deciding whether to allow new or increased wastewater loads. OAR 340-41-026(3).

Attachment B contains a historical discussion of Oregon's Water Quality Regulations to give further background and context to the approach used to build flexibility into the rules. (Remember, statutory authority to grant variances to water quality rules does not explicitly exist.)

### **Potential Options for Providing Flexibility in Application of Existing EQC Standards**

The following are options that may be available to the EQC to provide a degree of flexibility in application of existing standards in a specific situation (approval action, contested case, etc.):

1. Draft (or revise) rules to clearly build into the standard the desired option for flexibility and the criteria for exercising the option.

The rulemaking process requires broad public notice and allows input of information from all sources. In cases where standards must be submitted to EPA for approval, EPA concurrence in the proposal will be required.

2. Use existing statutory authority to grant a variance to rules where such authority exists (Air Quality, Solid Waste, Noise, etc.).

Statutory authority to grant a variance usually requires that someone apply for the variance, that some form of public process be used prior to granting the variance (opportunity for input from potentially affected persons), and that the Commission adopt specific findings that statutory criteria for granting the variance are found to exist. In the case of Air Quality, if the Commission grants a variance, it may be necessary to also adopt specific revisions to the federally mandated State Implementation Plan (SIP) and secure EPA approval of the SIP revision.

3. Delay a Commission decision on the issue at hand (if possible) until completion of rule revision.

The rulemaking process usually takes in the range of 4-8 months. A rule can be developed and adopted in a shorter time period, but it is difficult in light of the required opportunity for notice and hearing. It may not be practicable or legally possible to delay a decision long enough so that the decision can be based on a new rule. EPA approval would be required before revision of a federally approved rule could be effective.

4. Make the Commission decision based on current rules (even though uncomfortable); then direct the Department to undertake rulemaking to change rules of concern. If rules are finally changed, make provision for expedited reconsideration of the matter previously decided (via new application).

Consideration of the specific facts related to a decision (approval action, contested case, etc.) may focus attention on inadequacies in existing rules (difficulty in interpretation, lack of clarity, conflict with other rules, etc.). Thus, it is a logical time to direct staff to initiate the process to modify the rules to address concerns. The more difficult procedural question is what to do until a rule revision is adopted through the due process. Delay of a decision pending rule revision may leave the impression that the rule is being modified to accommodate a specific proposal rather than to fix a basic deficiency. The rulemaking process is somewhat easier if a pending decision is not hanging as a cloud over the process. Therefore, staff are generally more comfortable when the issue is decided based on the current rule and then re-visited upon re-application after the rulemaking issue is decided.

5. Seek additional variance authority as necessary from the legislature.

This may be an option for providing flexibility in those program areas where variance authority does not currently exist.

6. Develop a new interpretation or revised policy within a contested case proceeding.

An agency can deviate from a prior position or practice if the agency explains the inconsistency. This allows the agency to distinguish one case from another, and it also allows the agency to correct decisions that it now believes were mistaken. This option is of limited practical value, however, because the courts have held that the agency cannot deviate from its formal statutes and rules.

## Current Variance Authorities

### Air Quality

ORS 468A.025 sets out the factors EQC is to follow in setting air quality standards. ORS 468A.075 gives EQC express authority to grant variances from requirements of any rule or standard. EQC can grant a variance only if it finds that compliance with the rule or standard is inappropriate. The criteria for making such a determination are: conditions exist which are beyond control of the persons granted the variance; strict compliance is unreasonable, burdensome or impractical due to special physical conditions or cause; strict compliance would substantially curtail or close down a business; or there is no other alternative facility or method of handling available.

If the Commission grants a variance, it may be necessary to also adopt specific revisions to the federally mandated State Implementation Plan (SIP) and secure EPA approval of the SIP revision.

### Noise

ORS 467.060 provides as follows:

- (1) The Environmental Quality Commission by order may grant specific variances from the particular requirements of any rule or standard to such specific persons or class of persons or such specific noise emission source, upon such conditions as it may consider necessary to protect the public health, safety and welfare. The specific variance may be limited in duration. The commission shall grant a specific variance only if it finds that strict compliance with the rule or standard is inappropriate because:
  - (a) Conditions exist that are beyond the control of the persons applying for the variance;
  - (b) Special circumstances render strict compliance unreasonable, unduly burdensome or impractical due to special physical conditions or cause;
  - (c) Strict compliance would result in substantial curtailment or closing down of a business, plant or operation; or
  - (d) No other alternative facility or method of operating is yet available.

Other provisions of this statute allow delegation of the variance authority to the Department by rule; provide for revocation of variances upon the making of certain

findings, and provide that a contested case procedure is required for denial, modification, or revocation of a variance.

### **Water Quality**

ORS 468B.048 sets out the factors EQC is to follow in setting water quality standards. There is no equivalent variance language in the water quality statutes as there is in air quality.

CFR sec. 131.13 states that variances may be included in state standards, subject to EPA review and approval. However, the Clean Water Act also has a specific anti-degradation section (42 USC sec. 1342(o)) and CFR sec. 131.12.

33 USC sec. 1312 - effluent limitations; the Administrator with the concurrence of the state can change effluent limitations if there is no reasonable relationship.

33 USC sec. 1313 - effluent limitations can be revised only: (A) where standards have not been attained, if reviewed limitations will assure attainment and designated use not being attained is removed or (B) where standards have been attained, if change is subject to and consistent with anti-degradation policy.

### **On-Site Sewage Disposal**

ORS 454.657 provides as follows:

- (1) After hearing the Environmental Quality Commission may grant to applicants for permits required under ORS 454.655 specific variances from the particular requirements of any rule or standard pertaining to subsurface sewage disposal systems for such period of time and upon such conditions as it may consider necessary to protect the public health and welfare and to protect the waters of the state, as defined in ORS 468B.005. The commission shall grant such specific variance only where after hearing it finds that strict compliance with the rule or standard is inappropriate for cause or because special physical conditions render strict compliance unreasonable, burdensome or impractical.

The statutes further provide that the Commission shall adopt rules for granting variances, and provides for delegation of the variance authority to special variance officers appointed by the Director. By law, decisions of such variance officers may be appealed to the Commission.

### **Solid Waste**

ORS 449.225 provides as follows:

(1) If the Commission finds that a disposal site cannot meet one or more of the requirements of ORS 459.005 to 459.105, 459.205 to 459.245 and 459.255 to 459.385 or any rule or regulation adopted pursuant thereto, it may issue a variance from such requirement either for a limited or unlimited time or it may issue a conditional permit containing a schedule of compliance specifying the time or times permitted to bring the disposal site into compliance with such requirements, or it may do both.

- (3) The Commission shall grant a variance or conditional permit only if:
- (a) Conditions exist that are beyond the control of the applicant.
  - (b) Special conditions exist that render strict compliance unreasonable, burdensome or impractical.
  - (c) Strict compliance would result in substantial curtailment or closing of a disposal site and no alternative facility or alternative method of solid waste management is available.

### **Hazardous Waste**

ORS 466.02 authorizes EQC to adopt rules setting requirements for treatment, storage, and disposal (TSD) of hazardous waste, for operation of TSD sites, and for selection of TSD sites. ORS 466.070 sets out the factors EQC is to follow in setting of standards. Under ORS 466.075(3) EQC may exempt certain classes or types of generators from the requirements. EQC can exempt only if the generator is not likely: to cause or significantly contribute to an increase in serious irreversible or incapacitating reversible illness; or to pose substantial present or future threat to human health or the environment.

### **Superfund**

ORS 465.315 sets out the degree of cleanup and control under either a removal or remedial action for the released hazardous substance. Cleanup of the release, and control against future releases, shall be such as to protect present and future public health, safety, welfare and the environment. As much as possible, the director of DEQ is to choose a remedial action that protects human health and the environment, is cost effective and that uses permanent solutions and alternative treatment technology.

The director may exempt onsite removal or remedial action done in accordance with requirements of the treatment, storage and disposal of hazardous waste or PCB (466.005 - 466.385) from the requirements laid out in the ORS dealing with solid waste, reuse and recycling, air quality, water quality, or general environmental quality. Even with such exemption, treatment, storage or disposal must protect present and future public health, safety and welfare, and the environment.

## General Limitations

"Overfiling" - the EPA can take action if it feels the state has not properly addressed problems in issuing its permit. EPA can seek a civil penalty, or direct compliance with whatever condition or limitation it feels is in violation. EPA has this authority under hazardous waste, air and water statutes.

Revocation of state program - EPA has continuing authority to audit state programs and revoke a state's authority to administer its program. Authority under hazardous waste, water quality standards, NPDES, and ambient air quality.

Citizens suits - can be brought against regulated community or state to compel stricter compliance with environmental regulations. Authority under hazardous waste, water and air.



## Attachment B

### Historical Discussion of Water Quality Regulations to give background/context/ rationale for the options.

Oregon's water quality program has evolved over a 54 year period through a multitude of decisions which build on each other -- each with underlying assumptions. These assumptions have not been systematically written down so it isn't surprising that people are unfamiliar with the assumptions that have been taken for granted in the past.

This evolution has been guided, at least in part, by the following assumptions and statements of principle:

1. It is always cheaper to prevent pollution than it is to clean up pollution.
2. Protect the quality of the water whether or not you need to use it today. You may not be able to clean it up tomorrow when you need it.
3. The generator of waste is responsible for paying for treatment and control. The user of the water should not have to pay clean up costs.
4. Make the best decision you can today with the information available to protect beneficial uses for the present and the future. If you wait until all the information you would like or need is available, you will never make a decision.
5. At best, the timetable for achieving results is variable, but the ultimate goal or standard should not be variable.
6. Recognize that no decision is forever -- better information available tomorrow will require you to adjust from your previous course.
7. All dischargers should be required to provide Highest and Best Practicable Control Technology to minimize pollution. This is considered to be an equitable, fair and reasonable way to protect the resource over time for future generations.

Highest and Best Practicable Control Technology is a term of art. It is not precisely defined. It is not intended to include experimental technology or the leading edge of new technology. It has generally been interpreted to mean something close to the state of the art technology that is beginning to be more widely applied.

Highest & Best was not intended to be applied to sources on a day to day operational basis. It was intended to guide definition of the level of technology that should be installed when a new facility was being constructed, or when an

existing facility proposed to expand, significantly modify, or reconstruct their existing facilities. The basic premise was that it is cheaper in the long run to build to meet the needs of the future when a project is underway, rather than do the bare minimum today, and then come back tomorrow to retrofit facilities midway through their life cycle.

8. We strive for relative equity, not precise equity, in our dealings with sources. Pursuit of identical control requirements for all sources may appear to be fair and equitable, but the subtle differences between the sources can make precisely identical control requirements unfair, inequitable, wasteful of scarce resources, and not particularly effective in achieving environmental quality goals.

9. Remember, it is difficult to borrow money at the bank to finance pollution control facilities by themselves -- they rarely produce any revenue that can pay off the loan.

Therefore, resist the temptation to require full compliance before any expansion of production is allowed. Take advantage of investment in production facilities to capitalize on the better ability of finance and amortize pollution control facilities for existing as well as expanded production.

10. To the extent practicable, sources should be allowed reasonable time to amortize their investments in pollution control facilities before new or additional requirements are imposed.

11. The timetable for compliance should be very rapid if failure to comply will result in irreparable damage to a resource or a serious immediate threat to health. Time allowed in other cases, particularly correction of pollution that has existed for a long time, should be reasonable in light of the local circumstances.

12. If you don't set a deadline, it won't get done! (known as McPhillips Rule after longtime member and chairman Barney McPhillips)

13. Push for environmental gain or improvement when the economy is booming; try to maintain status quo and not lose ground when the economy is flat.

14. Remember, it can take between 3 and 10 years to plan, design, finance, and construct pollution control facilities. This is longer than the 4 year term of most politicians, and longer than they are willing to wait for results. Be prepared to take criticism for not achieving results more promptly.

15. Progress in pollution control is a little like "peeling an onion" -- You attack the visible surface layer and remove it -- only to expose a new layer (pollution problem) underneath. It was there all along, but it was masked from view or

recognition. No matter what you do, your efforts to resolve apparent pollution problems will only reveal new problems to be tackled.

16. The question is not whether our waste products will pollute our nest; rather will we be bright enough to limit the pollution to just one corner of the nest. It is inevitable that we will produce waste products. We can minimize the quantity of waste, use treatment processes to change the form of the waste and thus reduce the adverse effects, but ultimately we must place the residual somewhere. We can choose to concentrate and contain it in one manageable location, or we can choose to dilute and disperse it into the environment in the least harmful manner so as to minimize adverse effects. Zero discharge is not an option.
17. Rules are like a two edged sword: they can cut both ways. You try to write them so that they cut in your favor most of the time. However, no matter how well drafted a rule is, there is likely to be a specific factual circumstance where literal application of the rule will produce a result that is contrary to what the rule is trying to achieve. Therefore, try to build into the rule some process (with appropriate checks and balances) to grant an exception when necessary to assure that the intent of the rule can be achieved.
18. The cleaner you make the environment, the cleaner the public will want it.

### **Specific Background on Water Quality Regulations**

The current rules contained in OAR Chapter 340, Division 41 are generally referred to as the Water Quality Management Plan. Most of these rules were formally adopted in 1976, and have been amended many times since. The plan consists of general policy statements, water quality standards, implementation policies and procedures, and special basin specific policies and requirements.

The policy statements were, for the most part, a codification of informal (but previously unwritten) policies and guidelines that had evolved over the years and had guided department staff in permit drafting, source regulation, and water quality control.

The basic plan elements are listed below to give a sense of what is included. Comment is provided on selected elements to give a better indication of what was intended:

#### **General Policies** (Applicable to all River Basins)

1. "The rules which follow, together with the applicable laws of the State of Oregon and the applicable regulations of the Environmental Quality Commission, set forth Oregon's plans for management of the quality of public waters within the State of Oregon."

"Under this plan, the Department of Environmental Quality will continue to manage water quality by evaluating each discharge and activity, whether existing or a new proposal, on a case-by-case basis, based on best information currently available and within the limiting framework of minimum standards, treatment criteria, and policies which are set forth in the plan." [OAR 340-41-001 (1) & (2)]

The intent of these policies was to assure continuation of the historic method of case-by-case evaluations. Decisions were to be made using AVAILABLE information. The guiding framework of standards, criteria and policies were intended to be applied to each case with sufficient flexibility to assure that inequities were not created.

2. Antidegradation Policy [OAR 340-41-026 (1)(a)]

This is a relatively new policy statement. Rules adopted in 1976 did not include a specifically labeled antidegradation policy. Instead, the rules were drafted so that the total body of rules would satisfy EPA's requirements that there be an effective policy against degradation in force in the state.

3. Existing Source Growth Accommodation Policy [OAR 340-41-026(2)]

This policy initially required that growth and development be accommodated by increased treatment efficiency such that discharged waste loads did not increase unless otherwise approved by the Commission. In recent years, substantial rule language has been added to specifically and more narrowly define the basis for Commission approval of a load increase.

4. Policy on New Waste Sources [OAR 340-41-026 (5)]

New sources must give highest priority to alternatives which utilize reuse or disposal with no discharge to public waters. New discharge loads to public waters must be approved using the criteria mentioned above for increased loads for existing sources.

5. Policy on Discharges to Lakes [OAR 340-41-026 (6)]

No discharge of wastes to lakes or reservoirs is allowed unless the Commission grants an exception based on criteria in the rules.

6. Policy on Log Handling in Public Waters [OAR 340-41-026 (7)]

7. Policy on Sand and Gravel Removal Operations [OAR 340-41-026 (8)]

This policy provides a link to permits issued by the Division of State Lands.

8. Policy on Logging and Forest Management Activities [OAR 340-41-026(9)]

This policy provides a link to the Oregon Forest Practices Act.

9. Policy on Road Building and Maintenance Activities [OAR 340-41-026(10)]

10. Policy on Non-Point Source Pollution Control [OAR 340-41-026 (11)]

11. Ground Water Protection Policy [OAR 340-40]

(This policy was first added to the plan in 1981 as OAR 340-41-029. The policy was expanded in 1989 following passage of the State Ground Water Protection Act.)

12. Policy on Sewerage Works Planning and Construction [OAR 340-41-034] (added in 1981)

This is actually a series of policy statements that were enacted to provide additional guidance for dealing with the transition away from total reliance on federal funds for sewerage works construction.

Implementation Policies (Applicable to all River Basins)

13. Permit Required for Treatment Facility Construction, Operation, and Discharge [ORS 468B.050 and OAR 340-41-120 (1)]

14. Plan Approval Required [ORS 468B.055 and OAR 340-41-120 (2)]

15. Policy on Implementation of Waste Treatment Requirements through Permits [OAR 340-41-120 (3)]

This policy has several components that guide placement of compliance schedules in permits:

- For new or expanded waste loads, it requires approved control facilities to be in place before startup and discharge.
- For existing sources that are required to upgrade to correct a problem, the schedule for compliance is to be placed in the permit.

- Where minimum design criteria for facilities specified in the rules were more stringent than federal requirements or the treatment level being provided at the time of adoption, it allowed deferral of upgrading until facilities were modified or expanded.
  - For facilities that were in the process of planning and constructing facilities based on earlier less stringent requirements, it allowed continuation of the planned program and deferral of the more stringent requirements until future expansion or modification.
16. Policy on Regulation of Confined Animal Feeding Operations [OAR 340-41-120 (4)]
  17. Policy on Incorporation of New Non Point Source Requirements [OAR 340-41-120 (5)]
  18. Policy on Dominance of Federal Requirements Where More Stringent [OAR 340-41-120 (6)]
  19. Policy on Monitoring [OAR 340-41-120 (7)]
  20. Policy on Resolving Conflicts with Other Plans [OAR 340-41-120 (8)]

Water Quality Standards (Separate Standards are Established for each Designated River Basin)

21. Highest and Best Practicable Treatment and Control Policy [OAR 340-41-205 (1)] and all other basins.
22. Water Quality Standards [OAR 340-41-205 (2) & (3)] and all other basins.
23. Policy on Mixing Zones [OAR 340-41-205 (4)] and all other basins.
24. Policy on Testing Methods for Determining Standards Compliance [OAR 340-41-205 (5)] and all other basins.

Minimum Design Criteria for Treatment and Control of Waste (For each Basin)

25. Minimum Design Criteria for Treatment and Control of Waste [OAR 340-41-215]

These minimum criteria apply to the design of "new" or significantly "modified" facilities. They were not intended to be applied as operational standards for existing facilities.

Special Policies and Guidelines (For each Basin)

Special policies, guidelines and requirements are included for some basins. For example, a special requirement for the Willamette Basin prohibits new wastewater discharges to the McKenzie River subbasin above Eugene's water intake, the North Santiam River subbasin, or the Clackamas River subbasin in order to preserve existing high quality water in these areas for municipal water supply and recreation uses.

In those areas where rules have been adopted to establish Total Maximum Daily Loads, the rules are included in the Special Policies and Guidelines section.

#### Interpretation and Application of Plan Elements:

The total package of rules provides a framework for regulating sources of water pollution and addressing pollution problems. Each policy statement and rule or standard, viewed by itself, accomplished a purpose and made sense. However, it was recognized that it was highly unlikely that any source would be able to comply with all of them at the same time. Since there was no statutory authority to grant variances to water quality regulations, many, but not all, of the policies were initially drafted to include the words "unless otherwise approved by the Commission". This approach made it possible for the Commission to decide on a case by case basis which rules were more important, and strike a reasonable balance. The approach for the water quality standards was different, however.

Water Quality Standards were the foundation -- both in statute and in the water quality management plan. Standards were intended to be as specific as current knowledge would allow to define the quality of water that was necessary to assure that water quality did not preclude any of the recognized beneficial uses. It was assumed that knowledge would improve over time, and that standards would be periodically updated and refined. It was also assumed that standards would become more specific and detailed as better information was available. Since the standards were adopted by rule, it was understood that the rulemaking process would have to be followed to enact changes.

Water quality standards were of two basic types:

- Specific numeric criteria: Standards with specific numeric criteria were drafted in fairly absolute terms. Where flexibility was intended, it was written in specifically. For example, the standards for temperature and turbidity allow and establish a process for granting short term exceptions to accommodate essential in-water construction. By contrast, the dissolved oxygen and pH standards have no exception mechanism build in to them.
- Narrative criteria: Narrative criteria define a sense of direction or values to be protected, but do not establish specific measurable criteria. The basic

wording of the narrative criteria allows some room for flexibility in interpretation.

When the water quality standards were initially adopted, a number of assumptions were made. Actual data was not available regarding current or natural water quality in most of the state. Rather than wait for data, standards were established to assure a high degree of protection of potential and actual uses. It was recognized that when data became available, it might suggest the need to change the standard to be either more or less restrictive. It was specifically recognized that data could show that natural quality was in violation of the adopted standard. Therefore, a rule provided that where natural quality could be shown to exceed the standard, the natural quality became the standard. It was also assumed that standards would be modified when and as necessary.

Refinement and updating of water quality standards has not taken place as originally intended. Provisions of the federal Clean Water Act have made it somewhat more difficult to adjust standards in those cases where the desired adjustments leave the impression that water quality standards are being relaxed. In essence, the Clean Water Act assumes that all existing standards were established based on good and sound data, and therefore, any relaxation of a number constitutes an unacceptable downgrading of water quality.



**POLLUTION PREVENTION**

**EPA' INDUSTRIAL TOXICS PROJECT**

## **WHAT IS THE 33/50 PROGRAM (INDUSTRIAL TOXICS PROJECT)?**

The 33/50 Program (Industrial Toxics Project) is a voluntary pollution prevention initiative that builds squarely on the Agency's pollution prevention policies and programs. It aims, through voluntary pollution prevention activities, to reduce releases and off-site transfers of a targeted set of 17 chemicals from an aggregate of 1.4 billion pounds in 1988, down to 700 million pounds by 1995, a 50% overall reduction.

### **Major Project Goals**

The principal goals the EPA Administrator has set for the 17 select chemicals are -- an interim one-third reduction in 1992; and a fifty percent reduction by 1995. The Toxics Release Inventory (TRI) will be used to track these reductions, using 1988 data as a baseline. (An 18th substance, dioxin, is also targeted for reductions, but through a separate effort and with different reduction goals.)

The second, and equally significant goal of the Program is to achieve these reductions primarily through pollution prevention practices and to encourage industry to further develop its pollution prevention activities.

## **What Are the Target Chemicals?**

The 17 chemical groups are:

- Benzene
- Cadmium and Cadmium Compounds
- Carbon Tetrachloride
- Chloroform (Trichloromethane)
- Chromium and Chromium Compounds
- Cyanide Compounds and Hydrogen Cyanide
- Lead and Lead Compounds
- Mercury and Mercury Compounds
- Methylene Chloride (Dichloromethane)
- Methyl Ethyl Ketone
- Methyl Isobutyl Ketone
- Nickel and Nickel Compounds
- Tetrachloroethylene (Perchloroethylene)
- Toluene
- 1,1,1-Trichloroethane (Methyl Chloroform)
- Trichloroethylene
- Xylenes (all xylenes)

The list of chemicals is drawn from the Toxics Release Inventory (TRI) based on recommendations by EPA program offices and considering the following: high production; high releases and off-site transfers relative to total production as indicated from TRI reports; potential for pollution prevention activities; and potential for a wide range of health and environmental effects. For tracking purposes, each chemical will be tracked based on the way it is listed under TRI.

## How Does the 33/50 Program Signal a New Approach?

The 33/50 Program, which is being managed by the Special Projects Office in the Office of Toxic Substances, differs from EPA's traditional command and control approach. The following project description reveals these differences. The 33/50 Program is:

**National In Scope.** Success will be measured according to whether reductions have been achieved nationwide, rather than for each company or facility. The reductions will also be looked at as an aggregate -- total releases of all chemicals rather than for each one. This provides flexibility and allows participating companies to develop reduction strategies which are the most cost-effective for their facilities.

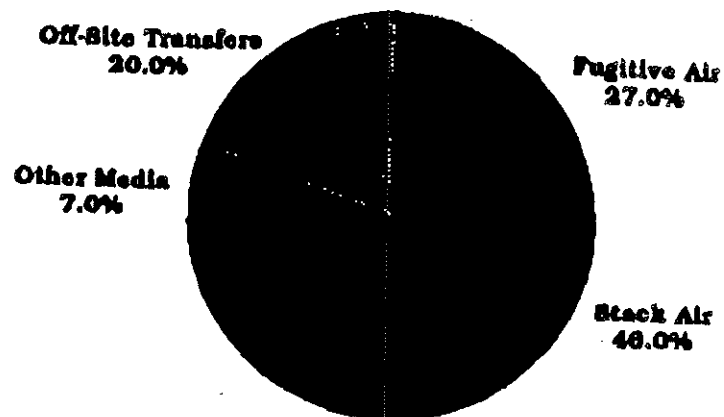
**Voluntary.** Companies are free to decide whether or not to participate in the program by: 1) committing to meet their own specified reduction goals, and 2) making good faith voluntary efforts to identify and implement cost-effective prevention measures. Any steps taken to reduce targeted toxics will not be enforceable, unless these activities are otherwise required by law or regulation.

**Multi-media.** The reduction goals apply to total releases and off-site transfers to air, land, and water.

**Prevention-oriented.** EPA's objective is to encourage these reductions through pollution prevention. The pollution prevention hierarchy, as established in the Pollution Prevention Act of 1990, states that pollution should be prevented or reduced at the source whenever feasible; this is a fundamental goal of the project. Pollution that cannot be prevented at the source should be recycled in an environmentally safe manner. In the absence of feasible prevention or recycling opportunities, pollution should be treated; disposal or other release to the environment should be used as the last resort. Companies are encouraged to participate, however, even if some of the reductions are achieved through treatment.

## Releases of 33/50 Program Chemicals By Media

Total = 1.4 Billion Pounds



Percent of total Releases and Transfers

## What Are the Advantages of A Voluntary Approach?

EPA's voluntary program is designed to benefit:

### The Public

- By significantly reducing the amount of pollution released to the environment.
- By getting faster reductions than might be achieved by waiting for statutes or regulations to take effect, and by achieving permanent solutions where source reductions occur.

### Industry

- By creating clear expectations in the form of a national goal for the targeted chemicals, and by providing the flexibility to use choose cost-effective environmental solutions which may also result in improved efficiency and net economic benefits.
- By providing positive incentive through public recognition of its efforts, and by working to identify regulatory barriers to pollution prevention.

### EPA

- By developing an alternative to the reliance on the traditional command and control, single media approach.

**Relationship to Other EPA Programs and Offices**

The 33/50 Program (Industrial Toxics Project) is part of the Agency's overall Pollution Prevention Strategy and the first of its new pollution prevention initiatives. It is also a major component of the Office of Toxic Substances' Existing Chemicals Revitalization Program.

As has previously been stated, the 33/50 Program will use EPA's Toxics Release Inventory (TRI) to track emissions reductions. Addition of new TRI reporting elements required by the Pollution Prevention Act of 1990 will also provide valuable information for evaluating progress and the utilization of pollution prevention for the project chemicals.

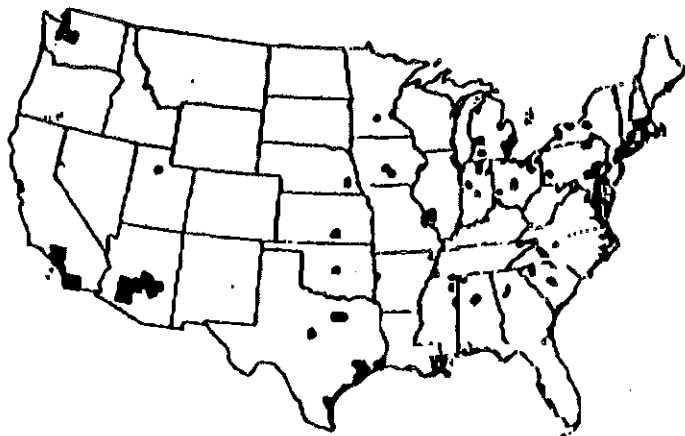
Although all of the 33/50 Program chemicals are regulated under one or more existing environmental statutes, it is important to note that the ITP is a voluntary activity which is intended to complement, not replace, on-going Agency programs. One area of complementary activity is the Clean Air Program. All of the project chemicals will be subject to the "Maximum Achievable Control Technology" (MACT) standards of the new Clean Air Act (CAA). EPA believes this incentive for early reductions may benefit the 33/50 Program in achieving its reduction goals. It should also be noted, however, that any commitments that companies make under the Clean Air program are enforceable, and must conform to relevant provisions of the CAA and its implementing regulations. Not all reductions made for the 33/50 Program will entitle companies to CAA credit, although the Agency will work toward maximizing the overlap.

Enforcement is another area where there is potential for overlap. However, nothing in the 33/50 Program is intended to interfere with on-going enforcement or permitting activities related to the project chemicals. Conversely, participation in the 33/50 Program is not intended as a basis for any company or facility-specific increased enforcement activity. Because it is a strictly voluntary program, companies that elect not to participate will not be penalized in any way by EPA.

**What Is EPA Asking Companies to Do?**

EPA has already contacted hundreds of companies to provide them with information on the 33/50 Program and continues to solicit company participation. Each company is being asked to examine its processes to identify and implement cost-effective pollution prevention practices related to the project chemicals. Companies are also being asked to develop written commitments to publicly state their reduction goals and how they plan to achieve them. A public docket at EPA Headquarters is being established to provide access to these written commitment statements. The following are general guidelines and "milestones" for what EPA is asking companies to do. While the bulk of activities are expected to occur within the stated timeframes, EPA realizes differences in company organizations and capabilities may make these dates unattainable for some companies. Information received by these dates will be used to prepare periodic progress reports on the initial implementation of the program.

- May 15, 1991 - receipt of companywide quantitative commitments by EPA.
- July 30, 1991 - receipt by EPA of facility specific and chemical specific quantitative reduction commitments including discussion of pollution prevention activities, as appropriate.
- November 30, 1991 - receipt of updated information, as needed, on company and facility specific commitments as a result of activities with other regulatory planning or "Toxic Use Reduction" programs, or the "Early Reductions" Program for the Maximum Achievable Control Technology (MACT) Standards under the Clean Air Act.



### Roles of EPA Regional Offices and States

A critical role in the implementation of the 33/50 Program will be played by EPA's Regional Offices, and with them, Interested States. During the initial phase, Regions will work with specific companies and facilities to encourage companies to participate in this initiative and to provide written reduction commitments. (While early participation is encouraged, companies can continue to "sign on" at any point during the project.)

The next focus of activity will be implementation of the reduction commitments by companies and facilities. While facility plans developed to meet state toxics use reduction requirements can be used for the 33/50 Program, reduction commitments made for the 33/50 Program are not meant to preempt any state requirements. Regions, in partnership with interested States, will play an essential outreach role throughout the project including identifying potential obstacles, technical assistance needs, areas of possible duplication, and areas of significant success. These activities will continue toward the target of 50% aggregate national reductions by 1995, and toward the larger goal of fostering a national pollution prevention ethic and a cleaner environment.

### How to Get More Information

For additional copies of this brochure or other 33/50 documents, contact the TSCA Assistance Service at (202) 554-5603. For more information on the 33/50 Program, contact the TSCA Hotline at (202) 554-1404. (8:30 am to 4:00 pm), or the Regional Coordinator for your Region:

#### Region 1

Dwight Peavey, (617) 565-4502  
(Massachusetts, Maine, Connecticut, New Hampshire, Rhode Island, Vermont)

#### Region 2

Barbara Metzger (201) 321-6754  
(New Jersey, New York, Puerto Rico, Virgin Islands)

#### Region 3

Bill Relly, (215) 597-8390  
(Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia)

#### Region 4

Carlton Halley, (404) 347-1033  
(Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee)

#### Region 5

Tony Restaino, (312) 886-6018  
(Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin)

#### Region 6

Bob Murphy, (214) 655-7235  
(Arkansas, Louisiana, New Mexico, Oklahoma, Texas)

#### Region 7

Carl Walter, (913) 551-7020  
(Iowa, Kansas, Missouri, Nebraska)

#### Region 8

Diane Groh, (303) 293-1735  
(Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming)

#### Region 9

Donna Deneen, (415) 744-1128  
(Arizona, California, Hawaii, Nevada, American Samoa, Guam, Commonwealth of the Northern Mariana Islands)

#### Region 10

Ken Feigler, (206) 553-1198  
(Alaska, Idaho, Oregon, Washington)

## INDUSTRIAL TOXICS PROJECT

1/16/91

- Goal:** EPA's Industrial Toxics Project (ITP), which is part of EPA's Pollution Prevention Strategy, seeks voluntary, measurable commitments from companies to reduce releases of 18 high priority toxic chemicals.
- Target:** EPA's nationwide goal is one-third reduction in total releases by 1992, and 50% by 1995. EPA intends for these goals to apply to all sources of releases of these chemicals and that pollution prevention will be the primary means of reduction. Environmental releases, as well as off-site transfers of waste, are targeted for reductions. These are aggregate national goals which may not be achievable or appropriate for every company or plant.
- Measuring Progress:** EPA will rely on data from the Toxics Release Inventory (TRI) database for all targeted chemicals except for Dioxin (which is not tracked by TRI). The baseline year will be 1988.
- Number of Facilities:** On a nationwide basis, EPA estimates that approximately 12,000 facilities filing TRI reports which release ITP chemicals. About two percent of these facilities are located in Alaska, Oregon, Idaho and Washington.
- Selection of Chemicals:** EPA selected the seventeen chemicals based on the recommendations of its major program offices using the following criteria:
- ✓ high levels of emissions
  - ✓ potential for health or ecological risk
  - ✓ potential for multiple exposures or cross-media contamination
  - ✓ limitations of treatment technologies
  - ✓ technical or economic opportunities for pollution prevention
- These chemicals are mostly heavy metals and chlorinated and non-chlorinated organics.
- Names of Chemicals:** Metals: Cadmium, Chromium, Lead, Mercury, Nickel, and their compounds  
Chlorinated Organics: Carbon Tetrachloride, Chloroform, Methylene Chloride, Trichloroethylene, Tetrachloroethylene, 1,1,1-Trichloroethane  
Aromatics: Benzene, Toluene, Xylene(s)  
Other: Methyl Ethyl Ketone, Methyl Isobutyl Ketone, Cyanides

**Dioxin:** Dioxin reductions will be managed using the EPA's Pulp and Paper Strategy.

**Timing:** On January 9, EPA sent letters requesting voluntary reduction goals. EPA selected these 600 companies based on quantities of releases. Initially EPA Administrator William Reilly will meet with the top 100 CEOs to discuss the goals of ITP and request their support. In spring, Region 10 (and its states as appropriate) will assist the individual companies in developing more detailed reduction plans.

**Structure:** EPA-HQ has formed cross-media subcommittees to provide analytical and technical support for implementing ITP. Workgroups include: Clean Air Act Overlap, Enforcement Issues, Grant Mechanisms, Voluntary Action, Regulatory Clusters, Reduction Measurement and Tracking, Pollution Prevention Incentives, Reduction Technology, State Organizations, Communications, and Regional Participation.

Gil Haselberger (EPA Region 10) is chairing the Regional Participation Subcommittee which will address regional and state ITP implementation issues. All regions and states are developing ITP networks. Ken Feigner is directing the EPA Region 10 ITP Network.

**State Role:** Although the Industrial Toxics Project is an EPA initiative, EPA will work with its states in partnership to implement this initiative. EPA intends to: keep the states fully informed, not impede or duplicate ongoing state program or enforcement activities, and solicit ideas from the states on implementing this project. EPA realizes that many of the states' programs serve to accomplish the same goal as the ITP. EPA will strive to assure that the states receive credit for reductions which are achieved through their programs.

<b>Schedule:</b>	1/9/91	Letters to Governors and CEOs Sent
	1/18/91	Region 10 RA and Operation Office Directors Discuss ITP Goals and Request State Network Contacts
	1/22/91	EPA Administrator Reilly Meets with CEOs
	1/24/91	ITP Conference with regional and state networks in Region 10 to discuss implementation issues
	1/28/91	EPA Administrator Announces ITP in a Press Conference

**Contact:** Ken Feigner (206) 553-1198 or FTS 399-1198

October 25, 1990 version

## EPA'S GOALS FOR THE INDUSTRIAL TOXICS PROJECT

*"I therefore propose the goals of reducing the total releases of these contaminants by one-third by the end of FY1992, and by more than half by 1995, through the most cost-effective measures possible."*

*William Reilly  
September 26, 1990*

In a speech before the National Press Club, Administrator Reilly committed EPA to major reductions in environmental releases of 17 high-priority toxic pollutants. EPA intends to seek voluntary commitments from major sources of these chemical releases to achieve these reductions. The contaminants the Administrator referred to are the chemicals that are of the greatest concern to the Agency's air, water, land and toxic chemical control programs. The chemicals — chiefly heavy metals, chlorinated and non-chlorinated organics — are priorities due to a recognized potential for reducing releases, and a combination of serious known health and environmental effects, along with a high potential for exposure due to large numbers of release sources, high volumes of releases, or both.

The ambitious reduction goals raise several issues which are addressed below.

*The goals are EPA's initial targets for action.* Although the goals of a one-third reduction by 1992, and a 50% reduction by 1995 are ambitious, there may well be certain cases — individual chemicals, sources, or types of releases — where even greater reduction targets would be appropriate. As new programs come into being, such as those envisioned in the Clean Air Act amendments, EPA will re-evaluate the magnitude and timing of its reduction targets.

*The goals can be achieved through voluntary action.* Voluntary reduction efforts can be a cost-effective and environmentally-effective means of achieving these national goals. Many companies have already made significant progress in reducing their toxic emissions, and have found that their pollution prevention measures often save, rather than cost, money. Establishing national reduction goals will spur additional activity. Where appropriate, EPA will use its enforcement and regulatory authorities to promote pollution prevention of these chemicals. However, achieving these goals chiefly through voluntary programs will be an effective demonstration of environmental progress through non-regulatory means.

*Progress will initially be measured by reliance on the Toxics Release Inventory, with 1988 as a baseline year.* Achievement of the goals will be documented by downward trends in the TRI data. The goals are independent of any increasing levels of production; toxic releases can be reduced even as economic activity increases. In effect, industries will have had four years to achieve the initial target of a one-third reduction, and seven years to reach the 50% mark. Those that have been actively pursuing pollution prevention should have little difficulty in achieving these goals; others may have to work more aggressively.



*The 17 chemicals are by no means an exhaustive list of EPA's concerns.* These are our principle starting points for achieving major reductions, and we believe these targets to be achievable and beneficial. Other targets may be set in the future as information on other chemicals raises concerns. Reductions in these 17 chemicals are anticipated to have a "spill-over" effect in fostering across-the-board reductions in toxics. In all cases, EPA's existing toxic chemical control programs, aimed at thousands of substances, will be continued and strengthened.

*EPA intends these goals to apply to all sources of releases of these chemicals.* Ultimately, this will entail reducing releases of toxic pollutants in the home, office, in farming, in motor vehicles, and elsewhere throughout society. However, in order to document progress in the near-term, we will rely chiefly on the Toxics Release Inventory to track reductions from manufacturing sources. For some chemicals and sources, it may be necessary to develop separate means of documenting reductions. As substantial progress is made in this sector, the Agency will expand its targeting effort to include other sources as well.

*Pollution prevention is the primary means of achieving these national goals.* The thrust of this initiative is not only to reduce releases, but to do so by minimizing the quantities of wastes generated in the first place, either by replacing toxic materials with non-toxic substitutes, or running processes more efficiently so as to produce less wastes. Processes that rely on destruction of wastes after they are generated are not as effective in achieving either the environmental or economic benefits of pollution prevention.

*Environmental releases as well as off-site transfers of waste are targeted for reductions.* It is not the Agency's intent to shift toxic chemical wastes from one disposal route to another. The best reduction option, by far, is to avoid generating wastes in the first place, by eliminating the use of toxic chemicals wherever possible, minimizing the quantities needed, and making operations more efficient so that less toxics end up in waste streams. This goal is best realized by documenting reductions in all forms of waste generation.

*Not all facilities will be able to achieve the same level of reductions.* EPA recognizes that facilities will differ in their potential for reducing their waste generation for these particular toxic chemicals. The goals we have set are national goals, and will not automatically be applied to specific chemicals or facilities. Doubtless, some facilities will be able to exceed them, while others may find it takes a longer time to implement pollution prevention measures in order to achieve the goals. Although the reductions are intended to apply across-the-board to the TRI data, the Agency will focus particular attention on the largest sources of releases of each of the 17 chemicals: these facilities can effectively contribute to national reductions by setting reduction goals that exceed those established by EPA.



OPTIONAL FORM 99 (7-90)

**FAX TRANSMITTAL**

# of pages ▶ 11

To	Mary Fujii	From	EPA Library
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Fax #	503-326-3399	Fax #	
NSN 7540-01-317-7388		5095-101	
GENERAL SERVICES ADMINISTRATION			

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## What's Green Lights?

Green Lights is an innovative, voluntary, non-regulatory program designed to:

- reduce pollution
- promote public-private partnership
- use market forces
- recognize environmental leadership

by encouraging participants to install energy-efficient lighting.

---

## What's in it for participants?

- lower electricity bills
- improved lighting quality
- enhanced corporate image

---

## What are Green Lights participants asked to do?

- sign memorandum of understanding
- survey all domestic facilities
- upgrade lighting wherever profitable
- complete upgrades within 5 years

---

## What does EPA do to support their efforts?

- EPA provides technical support from beginning to end.
  - state-of-the-art software to support decisionmaking
  - financing database
  - "consumer reports" of lighting products (National Lighting Product Information Program)
  - networking with lighting manufacturers, management companies, utilities, etc.
- And EPA provides opportunities for public recognition.
  - public service announcements
  - news articles
  - marketing materials
  - broadcast specials/videotapes



## Green Lights Participants

(1108 as of August 16, 1993)

Green Lights Partners (549)

Green Lights Allies (445)

Green Lights Endorsers (114)

**PARTNERS (500 total)****Parent Organizations:**

C Enercom  
 Abbott Laboratories  
 AES Corporation  
 Alamance County Schools  
 Albany General Hospital  
 Albertson's, Inc.  
 ALCOA  
 Allergan  
 \*Alliance for Affordable Energy  
 Alliance to Save Energy  
 Alliance for Environmental Education  
 Alliant Techsystems, Inc.  
 Allied Facility Services, Inc.  
 Alta Bates Medical Center  
 Alterra Corporation  
 Amdahl Corporation  
 American Auto-Matrix, Inc.  
 American Council for an Energy Efficient Economy  
 American Express Company  
 American Maize-Products Company  
 American Public Power Association  
 American Rivers  
 American Standard, Inc.  
 American Trucking Association  
 Amoco  
 ARCO  
 Arlington Public Schools  
 Axa/Hoffler Real Estate Company  
 Aromas-San Juan Unified School District  
 Asheville Mica Company  
 Ashland Oil, Inc.  
 Astoria General Hospital  
 Atlanta Area Presbyterian Homes  
 Atlantic City Medical Center  
 Automatic Data Processing, Inc.  
 Aveda Corporation  
 Baldor Electric Company  
 Bancorp Hawaii, Inc.  
 Bank of America  
 Bausch & Lomb  
 Baxter Healthcare Corporation  
 Bay Area Hospital  
 L.L. Bean, Inc.  
 Bear Stearns Companies, Inc.  
 Bechtel  
 Bell Atlantic  
 Bellcore  
 BellSouth Corporation  
 Biola University  
 Blue Cross & Blue Shield Mutual of Ohio  
 BMG/RCA Music  
 Boeing  
 Boulder Valley Public School District  
 Braeb Corporation  
 Brainerd University  
 Brooklyn Union Gas Company  
 Broward Community College  
 Brown University  
 Browning Ferris, Inc.

The Bruce Company  
 Bucknell University  
 Buffalo State College  
 California State University System  
 Camp Dresser & McKee, Inc.  
 Camping World  
 Canyon Ranch  
 Cape Canaveral Marine Services  
 Cardolite Corporation  
 Career Track  
 Carnegie Mellon University  
 Carondelet St. Joseph's Hospital  
 E. R. Carpenter Corporation  
 The Oliver Carr Company  
 The Carter Center, Inc.  
 The Catalyst Group  
 Catersair International Corporation  
 Center for Applied Engineering  
 Central Carolina Bank  
 Central Consolidated School District No. 22 (New Mexico)  
 Central Florida Community College  
 Chabot Community College  
 Charming Shoppes, Inc.  
 Chase Manhattan Corporation  
 Chemical Bank  
 Cherry Hill Board of Education  
 Chevron  
 Childhelp USA  
 Children's World Learning Centers  
 Cibola County Schools  
 Citicorp/Citibank  
 Citizen's Photo  
 City of Hope National Medical Center  
 City University of New York  
 Liz Claiborne, Inc.  
 Clark Atlanta University  
 Cleveland State University  
 Club Corporation, International  
 Colonial Pipeline  
 Colorado State University  
 Columbia University  
 Comenica Incorporated  
 Community Hospital of Anderson/Madison County  
 Community Medical Center  
 COMPAQ Computer Corporation  
 Continental Airlines  
 Continental Insurance  
 Coolfont Resort  
 Cooper Industries  
 CoreStates Financial Corporation  
 \*Cork Enterprises, Inc.  
 Cosmair, Inc.  
 Cracker Barrel Corporation  
 Crestar Bank  
 CTEC Corporation  
 CTSI, Inc.  
 Danaher Corporation  
 Data General Corporation  
 Defender Services, Inc.  
 Deluxe Corporation  
 The Dexter Corporation  
 Digital Equipment Corporation  
 DMB Associates, Inc.  
 Dock Resins Corporation  
 Doctor's Hospital of Jefferson

Downtown Plaza Towers Associates  
 Dresser Rand  
 Drexler Technology Corporation  
 Dura Pharmaceuticals  
 Duracell U.S.A.  
 Earth Care Peper  
 Earth Share  
 Eaton Corporation  
 Electric Power Research Institute  
 Eli Lilly and Company  
 Elkhart General Hospital  
 Energy Resource Consultants  
 Enron Property Company  
 Environmental Defense Fund  
 Environmental Law Institute  
 \*Esprit  
 F & W Publications, Inc.  
 Facility Management Consultants  
 Fairmont Minerals, Ltd.  
 Felton Brush, Inc.  
 First Data Corporation  
 First International Asset Management, Inc.  
 First Union National Bank  
 Firstar Bank Madison, NA  
 Fisk University  
 Fanningo Hilton  
 Flynn Lumber & Supply Co., Inc.  
 Fred Meyer, Inc.  
 Friend Public Schools  
 Fudpucker's of Fort Walton Beach, Inc.  
 HS Fuller Company  
 Gateway 2000  
 GEC Marconi Electronics Systems Corporation  
 General Dynamics Corporation  
 Ganovese Drug Stores, Inc.  
 Georgia Institute of Technology  
 Garber Products Company  
 Gibson Speno Companies  
 Gillette Company  
 Godfrey Realty Company, Inc.  
 Goodyear Tire & Rubber Company  
 Government Development Bank of Puerto Rico  
 W. R. Grace and Company  
 Greiner  
 Graphics Technology International  
 The Georgia Conservancy  
 Georgia State University  
 Gross Enterprises  
 Grumman Corporation  
 GTE  
 Hackensack Medical Center  
 Hahnemann University  
 Halliburton Company  
 Harris Corporation  
 Hasbro, Inc.  
 Haworth, Inc.  
 Herman Miller, Inc.  
 Hewlett-Packard Company  
 Highland Plaza Office Building  
 Highlands Regional Medical Center  
 Hilton at the Circle  
 Hoechst Celanese  
 Hoffman-La Roche, Inc.  
 Hofstra University

The Home Depot  
 Home Savings of America  
 HON INDUSTRIES Inc.  
 Honeywell, Inc.  
 Hope Network  
 Horton Memorial Hospital  
 Hotel San Remo-Ramada  
 Humana, Inc.  
 Huntsville City Schools  
 ICF International  
 Illinois State University  
 Inn America Hospitality, Inc.  
 INOVA Health Systems  
 Interface Flooring Systems, Inc.  
 Intergraph Corporation  
 International Institute for Energy Conservation  
 International Technology Corporation  
 Interstate Hotels Corporation  
 IPS Electric and Midwest Gas  
 Irish Boat Shop  
 ITT Corporation  
 Izaak Walton League  
 Jackson State University  
 Jay Peak Ski and Summer Resort  
 The Jewish Home for the Elderly  
 Joan Fabric Corporation  
 Johns Hopkins/SAIS  
 Johnson & Johnson  
 Johnson Controls World Services  
 Kerr-McGee Corporation  
 KeyCorp  
 KinderCare  
 Kinko's Service Corporation  
 Kolar Management, Inc.  
 Koury Corporation  
 La-Z-Boy Chair Company  
 Lake Tahoe Community College  
 Leon County School Board  
 Lockheed Corporation  
 Longs Drug Stores Corporation  
 Louisville & Jefferson County Metropolitan Sewer District  
 Louisville Resource Conservation Council  
 Lowe's Companies, Inc.  
 Lutheran Homes of Oshkosh  
 Lyondell Petrochemical Company  
 M-Teo Enterprises  
 MagneTek, Inc.  
 \*Marion County School District of Tennessee  
 Marion General Hospital  
 Marriott Corporation  
 Martin Marietta Corporation  
 Maryland Science Center  
 Massachusetts Institute of Technology  
 Mattel, Inc.  
 Maytag  
 MBNA Corporation  
 McDonald's Corporation  
 McKeesport Hospital  
 McNeil Real Estate Management  
 The Meade Group, Inc.  
 Meadowcreek  
 Medcenter  
 Medical College of Ohio

The Melville Corporation  
 Memorex Telex  
 Memorial Hospital at Gulfport  
 Memorial Hospital of Lafayette  
 County  
 Mendocino Brewing Company  
 Mercer University  
 Mercy Hospital (Toledo)  
 Methodist Hospitals of Memphis  
 Metropolitan Atlanta Rapid Transit  
 Authority  
 Metropolitan Water Reclamation  
 District of Greater Chicago  
 3M  
 Minnesota Mutual Life Insurance  
 Company  
 ML Park Place Corporation  
 Mobil Corporation  
 Monsanto Company  
 \*Morrison Knudsen Corporation  
 Motorola Incorporated  
 Mt. Bachelor Ski & Summer Resort  
 Murphy Oil Corporation  
 Natick Village Condominiums  
 Association  
 National Semiconductor Corporation  
 National Service Industries  
 National Westminster Bancorp  
 National Wildlife Federation  
 Natural Resources Defense Council  
 The Nature Conservancy  
 The Navajo Nation  
 NBD Bank, N.A.  
 NRS Consultants  
 NRS USA  
 New Canaan YMCA  
 New York Life Insurance and  
 Annuity Corporation  
 New York Marriott Marquis  
 NYNEX Corporation  
 Nike, Inc.  
 North American Phillips Corporation  
 North Carolina Alternative Energy  
 Corporation  
 \*North Little Rock School District  
 North Ottawa Community Hospital  
 North Shore Medical Center, Inc.  
 Northeast Bancorp, Inc./Union  
 Trust Corporation  
 Northern Arizona University  
 Northern Illinois Medical Center  
 Northern Virginia Regional Park  
 Authority  
 Northwest Georgia Regional  
 Hospital  
 Northwood School District  
 Ocean County College  
 Odyssey of America  
 OECO Corporation  
 Okaloosa-Walton Community  
 College  
 Old Kent Financial Corporation  
 The Old North Church  
 One Marconi Place, Inc.  
 \*One Energy Company, Inc.  
 Oxx Properties Florida, Inc.  
 PaineWebber Incorporated  
 Palmer Bellevue Corporation  
 \*Panhandle Eastern Corporation  
 Pasadena City College  
 J.C. Penney Company, Inc.  
 Perry Drug Stores  
 Philadelphia Zoological Garden  
 Phillips Petroleum Company  
 Phoenix Home Life Mutual  
 Insurance Company  
 Pima Community College  
 Pine Run Community  
 Pitney Bowes, Inc.  
 Planned Parenthood of South  
 Central Michigan  
 Pocono Environmental Education  
 Center  
 Polaroid Corporation  
 Pomona Valley Hospital Medical  
 Center  
 G.M. Popkay Company, Inc.  
 Provident Life & Accident  
 Insurance Company  
 Public Citizen  
 Quad Graphics  
 Quaker State Corporation  
 Ravenswood Hospital Medical  
 Center  
 Redlands Federal Bank  
 Resources for the Future  
 Rhone-Poulenc, Inc.  
 Richman Gerdman, Inc.  
 Rich Electronics, Inc.  
 Rite Aid Corporation  
 The Ritz-Carlton Hotel Company  
 Rochester Institute of Technology  
 Rockwell International Corporation  
 Rutgers University  
 \*Rykoff-Sexton  
 SAIC  
 St. Elizabeth Medical Center  
 St. Joseph's Hospital (NC)  
 St. Joseph's Hospital (WI)  
 St. Mark's School  
 \*St. Mary's Hospital  
 St. Michael Hospital  
 St. Paul Fire and Marine Insurance  
 St. Vincent's Hospital  
 Santa Cruz Valley Union High  
 School  
 Sarasota Memorial Hospital  
 School Administrative Unit #51,  
 New Hampshire  
 The School Board of Sarasota  
 County, Florida  
 Science Museum of Minnesota  
 SCT Yarns, Inc.  
 J.E. Seagram Corporation  
 Sealed Air Corporation  
 Service Merchandise Company  
 Seventh Generation, Inc.  
 Shell Oil Company  
 The Shorestein Company  
 Siemens Corporation  
 Signet Banking Corporation  
 Sinai Hospital of Baltimore, Inc.  
 Sisters of St. Francis of Sylvania,  
 Ohio  
 Skeff Distributing Company, Inc.  
 Smith Alarm Systems  
 Society for the Protection of  
 New Hampshire Forests  
 Sony Corporation of America  
 \*South Hills Health System  
 Southeastern University  
 Southern Company Services  
 Southface Energy Institute  
 Stafford Township Board of  
 Education  
 Starnate Communications, Inc.  
 Stambaugh-Thompson  
 Standard Federal Bank  
 Standard Microsystems Corporation  
 State Farm Mutual Automobile  
 Insurance Co.  
 State University of New York at  
 Stony Brook  
 Steeles, Inc.  
 Straub Clinic and Hospital  
 \*Student Pugwash USA  
 Student Loan Marketing Association  
 Subway Sandwiches and Salads,  
 Inc.  
 Sun Company, Inc.  
 Super Valu Stores, Inc.  
 Supermarkets General Corporation  
 Tampa General Hospital  
 Texaco, Inc.  
 Texas Air Control Board  
 The Timberland Company  
 Toccoa Falls College  
 Toshiba America, Inc.  
 Trade Press Publishing Corporation  
 Transamerica Corporation  
 Tufts University  
 Tucson Solar Village  
 Turner Broadcasting System  
 Underwriters Laboratories, Inc.  
 Unilever United States, Inc.  
 Union Camp Corporation  
 Union College  
 Union of Concerned Scientists  
 UNISYS Corporation  
 Unity College  
 University Corporation for  
 Atmospheric Research (NCAR)  
 University of Florida  
 University of Georgia  
 University of Illinois at Chicago  
 University of Miami  
 University of Michigan Medical  
 Center  
 University of Pittsburgh  
 University of Redlands  
 University of Rochester  
 University of Southern Maine  
 University of Virginia  
 US West, Inc.  
 US Bancorp  
 USF&G  
 USX (U.S. Steel/Marathon Oil)  
 Van der Horst USA  
 Villanova University  
 Volt Information Sciences, Inc.  
 Vought Aircraft Company  
 Wachovia Corporation  
 Wall & Associates  
 Walton Monroe Mills  
 Warner-Lambert Company  
 The Washington Times  
 Waste Management, Inc.  
 Wellborn Baptist Hospital  
 \*Wellington Sears Company  
 West Chester University  
 Western Digital Corporation  
 Westin Hotels & Resorts  
 Westinghouse Electric Corporation  
 Westminster College  
 Whirlpool Corporation  
 Witco Corporation  
 White Castle System, Inc.  
 Wolverine World Wide  
 Woodloch Finest  
 \*Work Stations, Inc.  
 World Resources Institute  
 World Vision  
 Xerox Corporation  
 Yamaha Corporation of America  
 Yellow Freight System, Inc.  
 Yosemite Community College  
 District  
 Zurn Industries, Inc.  
 Subsidiary Organizations:  
 Alaska Airlines, Inc.  
 American & Efird, Inc.  
 \*American Broadcasting  
 Companies, Inc.  
 ANR Pipeline Company  
 Aristech Chemical Corporation  
 B.P. Exploration  
 B.P. Exploration-Alaska  
 Bath Iron Works  
 BellSouth Telecommunications  
 Carolina Freight Carriers  
 Corporation  
 Carrier Corporation North America  
 Chem-Nuclear Geotech  
 Colonial Pacific Leasing  
 Deen Witter Realty  
 Domino's Pizza Corporation  
 Energy User News  
 First Data Resources, Inc.  
 First National Bank of Chicago  
 Geneva Pharmaceuticals, Inc.  
 GPU Services Corporation  
 Home Box Office  
 Horizon Air Industries, Inc.  
 IMS America Ltd.  
 Jantzen, Inc.  
 Jewel Food Stores  
 Karastan Bigelow  
 Kenyon Oil Company, Inc.  
 Lerner New York  
 Lone Star Steel  
 MGM Grand Hotel, Inc.  
 Powell Electrical Manufacturing  
 Company  
 Preston Trucking  
 Reliance Standard Life Insurance  
 Solar Turbines, Inc.  
 Solvay Minerals, Inc.  
 Southern California Gas Company  
 Southwire Company  
 Thrift Drug, Inc.  
 Viskase Corporation  
 Walt Disney Studios

**Divisions:**

•MBA-GEIGY Pharmaceuticals

•Newspapers

•Magazine Corporation

•Macwhyte Company

•Magnaflex, Division of ITW

•PepsiCo, Inc., Headquarters

•Division

•Pfizer, Inc. (NY Headquarters

Facility, Distribution,

Transportation, Corporate Services

Division)

•Scientific Atlanta Instrumentation

Group, Electronics Division

•Teradyne Connection Systems

•Volvo Cars of North America

**GOVERNMENT PARTNERS**

(49 total)

The State of Arkansas

The State of California

The State of Florida

The State of Hawaii

The State of Idaho

The State of Maine

The State of Maryland

The Commonwealth of

Messachusetts

The State of Missouri

The State of Nebraska

The State of Ohio

•State of Oregon

Commonwealth of

Pennsylvania

The State of South Dakota

•The State of Virginia

Virgin Islands, Government of the

United States

The City of Austin, Texas

The City of Azusa, California

The City of Birmingham, Alabama

The City of Cincinnati, Ohio

The City of Houston, Texas

The City of Memphis, Tennessee

The City of Naperville, Illinois

The City of Oxnard, California

The City of Portland, Oregon

The City of Tallahassee, Florida

The Town of Northwood, New Hampshire

Baltimore County, Maryland

Broward County, Florida

Cook County, Illinois

Dade County, Florida

Douglas County, Oregon

Hillsborough County, Florida

Howard County, Maryland

Leon County, Florida

Mercer County, New Jersey

Montgomery County, Maryland

Prince Georges County, Maryland

Prince William County, Virginia

Environmental Protection Agency

Glenview (IL) Park District Board

Glenview (IL) Public Library Board

School District #225 (Glenview, IL)

School District #30 (Northbrook, IL)

•The Village of Glenview Board

The Jimmy Carter Library and

Museum

South Coast Air Quality

Management District

Tennessee Valley Authority

Western Area Power

Administration

**MANUFACTURER ALLIES**

(234 total)

A Weatherization Co/AWXCO

A.L.P. Lighting + Ceiling

Products

Acculyte Corporation

Advance Control Technologies, Inc.

Advance Transformer Company

Advanced Environmental

Recycling Corporation

ALCOA Aerospace/Commercial

Rolled Products

Amelco Metals, Inc.

American Energy Management

American Illuminetics, Inc.

American Lighting Corporation

American Louver Company

American Scientific Lighting

Amerlux, Inc.

Appliance Control Technology, Inc.

Area Lighting Research

Aromat Corporation

Art Directions, Inc.

Atlas Electric Corporation

Badger USA, Inc.

Bata Lighting

Big Beam Emergency Systems

Brayer Lighting, Inc.

Bright Side Lighting

Brownlee Lighting

Bryant Electric

Canterra Electronics International

CCR Lighting Technologies

C.E.W. Lighting, Inc.

Chloride Systems, Manufacturer

of Exide Lightguard Products

CMB Associates, Inc.

Columbia Lighting, Inc.

Computer Power, Inc.

Conservation Technology, LTD.

Control Systems International

Cooper Lighting

Crownlite Manufacturing

Corporation

CSL Lighting Mfg., Inc.

Dark To Light, Inc.

Davis Controls Corporation

Dezer Manufacturing Corporation

Dielectric Coating Industries

Digecon

Direct Enterprise

Duralux Industries

Duray Fluorescent Manufacturing

Duro-Test Corporation

Dynamic Energy Products, Inc.

East Rock Manufacturing and

Technologies

Eclipse Technologies, Inc.

Edison Price Lighting

Elba USA, Inc.

Electronic Ballast Technology, Inc.

Emergency Safety Products, Inc.

Energy & Environmental Lighting

Services

Energy Design Corporation

Energy Saving Products, Inc.

Energy Savr Products

Energy Solutions International

Enersave Company

Enertion Technologies

Enterprise Lighting, Inc.

Entergy Systems and Services

Environmental Energy Group

ESCO International

Etta Industries

Extronix Division of Barron

Manufacturing

Fail-Safe Lighting Systems

Fair Electric Company

Finelite

First Lighting

Flexwatt Corporation

Flexlite, Inc.

FTI

FulCircle Ballast Recyclers

GE Lighting

The Genlyte Group

Good Earth Lighting, Inc.

Guardian Lighting Controls, Inc.

Guyco Corporation

WF Harris Lighting

Harris Manufacturing, Inc.

Heath Company

Hetherington Industries

Holophane Company, Inc.

Honeywell, Inc.

House Of Lite

Hubbell Incorporated, Lighting

Division

INCON Industries

Industrial Energy Systems, Inc.

Indy Lighting

Infolux Corporation

Integrated Power & Lites

International Energy Conservation

Systems

Intertec Lighting, Inc.

Isolite Corporation

Janmar Lighting

Jedcor Energy Management

Company, Inc.

Johnson Controls, Inc.

Juno Lighting

K-Lite Division of ICI Acrylics/K-S-H

Kenall

Kilowatt Sever, Inc.

Kim Lighting

King Technology, Inc.

The Kirin Company

Lamar Lighting Company

Legion Lighting

LuxaLite International

Light Energy Corporation

Lighting & Lowering System

Lighting Resources, Inc.

LightMedia Corporation

Lighttron of Cornwall, Inc.

LightScience Corporation

Litronics International

Lights of America

Lightway Industries

Litecontrol

Lithonia Lighting

Lorin Industries

LSI Industries

Lumatech Corporation

Lumax Industries, Inc.

Lumen-Tronics

Magnaray International

MagneTek, Inc.

Marvel Lighting Corporation

Megalite Corporation, Inc.

Mercury Recovery Services

MetalOptics, Inc.

MicroLite Corporation, Subsidiary

of Pittway

Midwest Conservation Systems

3M

MirrorLight, Inc.

ML Systems

Moldcast, Division of USI Lighting

Monnex Technologies

Mor-Lite

Motorola Lighting, Inc.

Mule Emergency Lighting

MyTech Corporation

National Cathode Corporation

National Lighting Company

Natural Lighting Company

Neonix

Norbert Belfer Lighting

Novas Ballast Company, Inc.

NOVA Conservation and Load

Management

Novitas, Inc.

NRG Lighting, Inc.

Optilight, Inc.

OrEqual, Inc.

OSRAM SYLVANIA Corporation

Paragon Electric Company, Inc.

Paramount Industries

Parke Industries, Inc.

Parrish Lighting and Engineering

PEC Lamp

Peerless Lighting Corp.

Peschel Energy, Inc.

Philips Lighting Company

PLC-Multipoint

Pleamonn Products

Powerline Communication

Pre Finish Metals, Inc.

Prescolite, Division of USI Lighting

Prescolite Controls, Inc.

Prime Ballast

Pritchett Wilson Group

Progress Lighting, Inc.

RAB Electric Manufacturing

Reflect-A-Light

Reflective Light Technologies

Remtec Systems

The Robert Group

Robertson Transformer Company

Roth Bros., Inc.

RoyalLite Manufacturing & Supply

Corporation

Ruud Lighting, Inc.

Salesco Systems USA

Save-A-Watt, Inc.  
 Scientific Component Systems  
 Sea Gull Lighting Products  
 Self-Powered Lighting, Inc.  
 Sensor Switch  
 Sherlin-Lite  
 Shield Source, Inc.  
 Silverlight Corporation  
 Sinkar Lighting Fixture Company  
 Solar Electric Systems of Kansas  
 City, Inc.  
 Solar Kinetics, Inc.  
 Solar Outdoor Lighting, Inc.  
 Southco Metal Services  
 Spaulding Lighting, Inc.  
 SPI Lighting, Inc.  
 Sportlite, Inc.  
 Staff Lighting Corporation  
 Standard Enterprises, Inc.  
 Steelcase, Inc.  
 Sterling, RMC  
 Stocker & Yale  
 Systematix, Inc.  
 Tamarack Corporation  
 Tek-Tron Enterprises  
 Teron Lighting  
 Terrelux, Inc.  
 Thomas & Betts Commercial and  
 Industrial Lighting  
 Thomas Industries, Inc.  
 Topaz Energy Systems  
 TORK, Inc.  
 Toshiba America Consumer  
 Products  
 Technologies  
 ThumbleHouse Corporation  
 Trojan, Inc.  
 TSO Designs  
 Uster Precision, Inc.  
 UNENCO  
 USES, Inc.  
 Valmont Electric  
 Venture Lighting International  
 Videssence, Inc.  
 Vise Lighting Corporation  
 Vision Impact Corporation  
 Visual Images  
 Waldmann Lighting Company  
 Warner Technologies  
 The Watt Stopper, Inc.  
 Wellmade Metal Products Company  
 H.E. Williams, Inc.  
 Wismarq Light Company, Inc.  
 Xtra Light  
 X-Tra Light Systems, Inc.  
 Zumtobel Lighting, Inc.

#### UTILITY ALLIES (61 total)

Alabama Power  
 American Electric Power System  
 Arizona Public Service Company  
 Atlantic Energy  
 Baltimore Gas and Electric  
 Company  
 Better Hydro Electric  
 Boston Edison Company  
 Central Maine Power  
 City of Georgetown, Texas

City Utilities of Springfield  
 Consolidated Edison of New York  
 Duke Power Company  
 Florida Power Corporation  
 Georgia Power  
 Grant County Public Utility District  
 Green Mountain Power Corporation  
 Greenville Utilities Commission  
 Gulf Power  
 Idaho Power Company  
 Jersey Central Power & Light  
 Company  
 Kansas City Power & Light  
 Los Angeles Department of Water  
 and Power  
 Madison Gas and Electric  
 Company  
 Mississippi Power  
 New England Electric System  
 New York Power Authority  
 Northern States Power Company  
 O & A Electric Cooperative  
 Oklahoma Gas and Electric  
 Company  
 Omaha Public Power District  
 Orange and Rockland Utilities  
 Orlando Utilities Commission  
 Pacific Gas & Electric Company  
 Potomac Electric Power Company  
 Pike County Light and Power  
 Company  
 Port Angeles Light Department  
 Portland General Electric Company  
 PSI Energy, Inc.  
 Puerto Rico Electric Power  
 Authority  
 P.U.D. #1 of Grays Harbor County  
 Public Service Electric and  
 Gas Company  
 Puget Sound Power & Light  
 Company  
 Rockland Electric  
 Sacramento Municipal Utility  
 District  
 Salt River Project  
 San Diego Gas & Electric  
 Savannah Electric Power  
 South Carolina Electric & Gas  
 Company  
 South Carolina Public Service  
 Authority  
 Southern California Edison  
 Company  
 Southern Maryland Electric  
 Cooperative  
 Springfield Utility Board  
 Tampa Electric  
 Taunton Municipal Lighting Plant  
 United Illuminating Company  
 The UNITIL System of Companies  
 Virgin Islands Water & Power  
 Authority  
 Virginia Power  
 Wisconsin Electric Power Company  
 Wisconsin Power & Light Company  
 Wisconsin Public Service  
 Corporation

#### DISTRIBUTOR ALLIES (82 Total)

A-M Electric Company, Inc.  
 Active Electric Supply  
 Adalite Incorporated  
 Advance Electrical Supply  
 Adventure Lighting Supply, Ltd.  
 Aladdin Lighting Supply  
 All Lighting Incorporated  
 American Light, Inc.  
 American Lighting and Electric  
 Supply Company  
 Archway Lighting Supply, Inc.  
 Armstrong Pacific  
 Atlantic Lighting and Supply Co.  
 (GA)  
 Atlantic Lighting and Supply Co.  
 (NJ)  
 Branch Group, Inc.  
 Bright Electrical Supply  
 The Bulb Man, Inc.  
 Burd Supply, Inc.  
 Codale Electric Supply  
 Conserve-A-Watt Lighting  
 Consumer Lighting Products  
 Cooper Electric Supply Company  
 Dauphin Electric  
 Debenham Electric Supply  
 Deeter Lighting  
 Dixie Electric Supply Corporation  
 Electric Supply, Incorporated (AZ)  
 Electrical Supply, Incorporated (OK)  
 Elliott Electric Supply  
 First Light Lighting Systems  
 Fitzpatrick Electric Supply  
 Gabco Enterprises, Inc.  
 General Products & Supply  
 Goforth Electrical Supply  
 Good Friend Electric  
 Grand Light & Supply Co., Inc.  
 Graybar Electric Company  
 Gross Electric  
 Hart Lighting & Supply  
 Holmes Distributors  
 Independent Electric Supply  
 Interstate Electric Supply Company  
 Kendall Electric  
 King Lighting Supply  
 Kirby Risk Supply Company  
 Lektron Industrial Supply  
 Leslie Electric Company  
 Light Bulb Supply Company  
 Lighting Supply Company  
 Major Electric Supply, Inc.  
 Mayer Electric Supply  
 MGM Lighting, Inc.  
 Michigan Chandelier  
 Mid Atlantic Lighting Company  
 Missouri Valley Electrical Company  
 Muska Lighting Center  
 National Electric Supply  
 North Coast Electric Company  
 OK Electric Supply Company  
 Orange Coast Electric Supply  
 Platt Electric Supply  
 Raymond deStaiser Inc.  
 Rayvern Lighting Supply  
 Retrofit Design Lighting  
 CN Robinson Lighting Supply

Rumsay Electric Company  
 Ryall Electric Supply  
 Shealy Electrical Wholesalers  
 Standard Electric Supply  
 Stanion Wholesale Electric  
 Starbeam Supply Company  
 Steiner Electric Company  
 Stokes Lighting Center  
 Stusser Electric Company  
 Superior Lighting Company  
 US Lamp  
 Voss Lighting  
 Western Extralite of St. Louis  
 Whitehill Lighting & Supply  
 Wholesale Electric Supply  
 Williams Supply  
 Wolff Brothers Supply  
 YESCO

#### LIGHTING MANAGEMENT COMPANY ALLIES (68 total)

A-1 Lighting Service Company  
 ABD Lighting Management  
 Company  
 Advanced Lighting Applications  
 Aetna Corporation  
 Ameri-Star Lighting  
 American Lighting, Inc.  
 Amtech Lighting Services  
 Applied Energy Management, Inc.  
 Arc Electric  
 Barney Roth Company  
 Balco Electric, Inc.  
 BK Engineering  
 Broadway Maintenance Company  
 Cherry City Electric  
 Chicago-Edison Corporation  
 Colorado Lighting  
 Conserve Electric Company, Inc.  
 Continental Lighting Services, Inc.  
 Creative Lighting Maintenance  
 Dixie Design Group  
 Efficient Lighting and Maintenance  
 Energy Controls & Concepts  
 Energy Matrix  
 Energy Specialties, Inc.  
 Fluorescent Maintenance Company  
 Fluorescent Maintenance Service  
 FMS Lighting Management Systems  
 Frevart Services, Inc.  
 General Lighting and Sign Service  
 IllumEx Corporation  
 Imperial Lighting Maintenance  
 Innovative Lighting Services  
 Kenetech Energy Management, Inc.  
 Light Source  
 LightTec, Inc.  
 Lighten Up, Inc.  
 Lighting Consultants International  
 Lighting Maintenance, Inc.  
 Lighting Maintenance and Service  
 Lighting Management Corporation  
 Lighting Solutions  
 Lighting Systems Tool  
 Luminaire Service, Inc.  
 M E Energy Resources  
 Master Lighting Service  
 Mira Lighting and Electric Service

Murphy Electric Maintenance Company  
 National Lighting Maintenance Supply Corporation  
 \* Mexico Energy Consultants  
 Planned Lighting, Inc.  
 Prime Lighting Management  
 Professional Lighting, Inc.  
 ProLite Lighting and Sign Maintenance  
 Reflections, Inc.  
 Sierra Automated Controls  
 Sigal Environmental  
 SICA Electrical & Maintenance  
 Spectrum Lighting Technologies  
 Stay-Lite Lighting  
 Suburban Lighting, Inc.  
 Superior Light and Sign Maintenance Co.  
 Sylvania Lighting Services  
 Synergy Lighting Corporation  
 United Electrical Maintenance Corporation  
 Universal Lighting Services  
 USA Energy Corporation  
 Vista Universal, Inc.  
 Xenergy, Inc.

#### ENDORSEES (114 total)

Aerospace Industries Association of America  
 Airport Council International - North America  
 \* Alliance for Affordable Energy  
 Alliance for Environmental Education  
 American Advertising Federation  
 American Gas Association  
 American Hotel & Motel Association  
 American Littoral Society  
 American Public Power Association  
 American Rivers  
 American Society for Hospital Engineering for the American Hospital Association  
 American Society of Interior Designers  
 American Trucking Association  
 Anchorage Chamber of Commerce  
 Asheville Chamber of Commerce  
 Associated Industries of Massachusetts  
 Association of Demand-Side Management Professionals  
 Association of Energy Engineers  
 Association of Professional Energy Managers  
 Atlanta Committee for the Olympic Games  
 Atlanta Regional Commission  
 The Audubon Society of New York  
 Clean Ocean Action  
 The Colorado Hospital Association/Colorado Hospitals for a Healthy Environment  
 CommonSense  
 Community Associations Institute

Connecticut Business & Industry Association  
 Consulting Engineers Council of Metropolitan Washington  
 Consumers' Counsel Governing Board, State of Ohio  
 Council of State Governments  
 Ecologic, Inc.  
 Edison Electric Institute  
 Electric Ideas Clearinghouse  
 Electronic Industries Association  
 Energy Efficiency Trade Alliance  
 Environmental Action  
 The Environmental Exchange  
 Environmental Law Institute  
 Federated Garden Clubs of Connecticut  
 Federated Garden Club of Vermont  
 Florida Institute of Government  
 Garden Club Federation of Massachusetts  
 Georgia Municipal Association  
 Georgia Hospital Association  
 Greater Atlanta Chamber of Commerce  
 Greater Seattle Chamber of Commerce  
 Home Center Institute  
 Hospital Council of Greater Milwaukee Area  
 Hospital Shared Services  
 Illuminating Engineering Society of North America  
 Institute For Alternative Futures  
 InterNational Association of Lighting Management Companies  
 International Facility Management Association  
 International Institute for Energy Conservation  
 Iowa Association of Business & Industry  
 Izaak Walton League  
 Lighting Design Lab  
 Maine Chamber of Commerce and Industry  
 Maine Municipal Association  
 The Maryland Chamber of Commerce  
 Maryland Hospital Association  
 \*The Maryland Municipal League  
 Massachusetts Energy Efficiency Council  
 Metropolitan Energy Center  
 Metropolitan Washington Council of Governments  
 Minnesota Chamber of Commerce  
 Mississippi Technical Assistance Program  
 National Association of Chain Drug Stores  
 National Association of Counties  
 National Association of Electrical Distributors  
 National Association of Lighting Management Companies  
 National Association of Regulatory Utility Commissioners (NARUC)

National Energy Management Institute  
 National Restaurant Association  
 National Retail Hardware Association  
 National Rural Electric Cooperative Association  
 Nevada Professional Facility Managers Association  
 New England Region-National Council of State Garden Clubs  
 New Hampshire Business & Industry Association  
 New Hampshire Federation of Garden Clubs  
 New Jersey Business and Industry Association  
 New Jersey Hospital Association  
 North Carolina Consumers Council  
 North Carolina Hospital Association  
 North Carolina Solar Energy Association  
 Northeast Public Power Association  
 Northern Light Section IES  
 Northwest Power Planning Council  
 Northwest Public Power Association  
 Northwood, New Hampshire Conservation Commission  
 Ohio Pollution Prevention Network  
 Oregon Society for Hospital Engineering, Inc.  
 Pacific Northwest Pollution Prevention Research Center  
 Puerto Rico Hospital Association  
 Rails-To-Trails Conservancy  
 Remodeling Contractors Association of America  
 Rhode Island Federation of Garden Clubs, Inc.  
 Saddleback Mountain Lion's Club, New Hampshire  
 Smaller Business Association of New England  
 Society for the Protection of New Hampshire Forests  
 Soil and Water Conservation Society  
 Southern Appalachian Man and Biosphere Cooperative  
 \*Student Pugwash USA  
 Students for an Energy-Efficient Environment  
 Texas Association of Business  
 Union of Concerned Scientists  
 United States Telephone Association  
 University of Tennessee Center for Industrial Services  
 Vermont Businesses for Social Responsibility  
 Virgin Island Retailers Association  
 Virginia Manufacturers Association  
 West Michigan Environmental Action Council  
 West Virginia Manufactures Association

Wisconsin Center for Demand-Side Research





United States  
Environmental  
Protection Agency

Office of Air and Radiation  
Global Change Division

May 1993  
Rev. 1

## ENERGY STAR BUILDINGS PROGRAM

### Introduction

EPA's new Energy Star Buildings Program is a voluntary and non-regulatory energy efficiency program for U.S. commercial buildings. The program will be closely coupled with the EPA Green Lights Program, utilizing many of the same "win-win" strategies that have led to the growth and success of that program. *(After two years, the Green Lights Program has over 800 corporations and other organizations participating, including more than 100 of the Fortune 500, and representing more than 3 percent of U.S. commercial floorspace)*

Working in partnership with corporations and other participating organizations, the Energy Star Buildings Program will seek to identify and aggressively promote broad opportunities for profitable investments in energy efficient equipment and operations in commercial buildings. Boosting buildings' efficiency will not only increase profits and competitiveness, but will help the environment by reducing direct and indirect combustion-related pollution associated with energy use in buildings. The Energy Star Buildings Program will also seek to expand markets for emerging energy-efficient technologies, with the goal of reducing prices to make investments even more profitable.

### Four Stage Implementation Strategy

A central component of the Energy Star Buildings Program is the recommendation that participants upgrade their buildings through a four-stage implementation program. Materials detailing this four-stage strategy are distributed to all participants in the Energy Star Buildings Program. The four stages can be summarized as follows:

- Stage 1: Building Survey and Tune-Up.
- Stage 2: Green Lights and Other Heating and Cooling Load Reductions.
- Stage 3: Improved Fans and Air Handling Systems.
- Stage 4: Improved Heating and Cooling Plant.

An important benefit associated with the staged implementation strategy is that the initial focus on surveying and loads-reduction in Stages 1 and 2

may significantly reduce the size and cost of equipment associated with Stages 3 and 4. Uncertainties in proper sizing of upgraded cooling equipment (chillers and direct-expansion (DX) units) are reduced, leading to potential equipment down-sizing and cost savings.

This four-stage approach provides a broad strategic framework for implementation of a comprehensive efficiency upgrade in a range of commercial building types. Partners are expected to follow this staged implementation strategy in each of their building upgrades. However, the strategy is deliberately flexible. For example, there will be many cases where implementation of Stage 2 upgrades (e.g. Green Lights) will precede the steps outlined in Stage 1.

### EPA Technical Support

In addition to publicizing the participation and energy savings realized by organizations in the Energy Star Buildings Program, EPA shall provide a number of technical resources to facilitate the planning and implementation of building upgrades. These resources will include:

- HVAC Upgrade Manual. This will be a step-by-step guide to a comprehensive commercial building upgrade.
- Software to calculate savings from upgraded fan systems.
- Database of financing programs pertaining to building efficiency upgrades.
- Case studies documenting monitored savings for specific technologies (such as variable speed drives on fan motors).
- EPA database of building energy usage computer simulations (using computer models developed by U.S. Department of Energy), documenting the expected energy savings resulting from the application of a range of specific building efficiency measures for a range of building types and locations.
- Generic specifications for specific energy efficient technologies.
- Information and guidance on indoor air quality issues.

### *Variable Speed Drive Demonstration*

The Variable Speed Drive Demonstration Study within EPA's Energy Star Buildings Program has recently been completed. The goal of this project has been to examine the potential increase in efficiency of air handling systems in commercial buildings, largely through the application of variable speed drives (VSDs) to fan motors. EPA and a group of nine Partners have completed a series of tests on existing installations of VSD controls on fan systems in several U.S. locations, to monitor the energy savings relative to mechanical (VAV) airflow controls. In most cases, the observed savings have been significant, and in general, VSD's are expected to save from 30 to 60 percent in retrofit applications on existing variable-air-volume systems.

### *Energy Showcase Buildings*

The Energy Showcase Building Program is an ongoing component of the Energy Star Buildings Program, and is intended to highlight the accelerated, voluntary and profitable upgrade of a small group of high-profile buildings in key U.S. metropolitan areas. The first building included in the Energy Showcase Building Program is the headquarters building of the First National Bank of Chicago, a 66 story, 2 million square foot facility in downtown Chicago.

### *How to Get Started*

To participate in the Energy Star Buildings Program, organizations will sign a Memorandum of Understanding with EPA for the Green Lights and Energy Star Buildings Programs (Existing Green Lights Partners will sign an Addendum to their existing Green Lights MOU). Partners in the Energy Star Buildings Program are expected to survey all owned U.S. commercial building space, to identify all profitable efficiency upgrades (rate of return greater than prime rate plus six percent), and to complete 90 percent of all profitable upgrades within seven years.

For more information, contact:

Energy Star Buildings Program  
EPA GLOBAL CHANGE DIVISION (6202J)  
WASHINGTON, DC 20460  
CHRIS O'BRIEN (202-233-9146)  
FAX (202-233-9578)

### **SAVINGS EXAMPLE: VARIABLE SPEED DRIVES**

Air handling accounts for up to 30% of electricity use in commercial office buildings and over 10% of all the electricity consumed in the commercial sector (EPRJ). The resulting expenses can be significant. Air handling for a single 100,000 square-foot office building can cost \$25,000 to \$60,000 per year.

Actual air handling needs vary considerably over the day and year as air conditioning needs change. In most older buildings, the constant speed AC motors in air handling systems operate continuously at full-speed, regardless of air flow requirements. This results in large amounts of wasted energy during most times of the year. Moreover, these motors are frequently oversized, and thus waste energy even on the hottest days.

Potential energy savings in air handling systems are particularly large because a reduction in fan speed results in a greater than proportional energy savings. For example, a 20% reduction in fan speed results in energy savings of almost 50%.

Variable-air-volume (VAV) air handling systems have been designed to capture some of these potential energy savings. The predominant VAV systems use mechanical means (i.e., variable inlet vanes) to control air flow to match changing building requirements and reduce fan energy use. However, VSDs are substantially more efficient than inlet vane controls, using from 30% to 60% less energy. For a 100,000 square foot office building, upgrading with variable speed drives can reduce operating expenses by between \$7,500 and \$36,000 annually. Installing VSDs on existing VAV systems will be recommended in most cases in the EPA Energy Star Buildings Program.

Variable speed drives save energy by constantly adapting fan motor speed to match the actual air flow demands determined by activity within a building. Under constant voltage, an AC motor's speed is directly proportional to the frequency of the supply current. VSDs control the motor's speed and energy use by varying the frequency of the AC current supply, which results in tremendous energy savings. VSDs typically pay for themselves in 1-4 years with a cost of conserved energy of 1¢-4¢/kwh.

In addition, because fan motors are commonly oversized, VSDs can reduce peak electricity demand and result in extra savings on utility bills. Even greater peak demand and energy savings are possible when VSDs are installed in conjunction with high efficiency lighting and office equipment, because these technologies produce less heat, thereby reducing cooling and air handling needs.

Finally, reduced maintenance costs and extended equipment lifetimes are additional benefits of VSD applications. VSDs allow for the "soft" start of motors and fans which reduces wear on belts and bearings.

United States  
Environmental Protection  
Agency

Air and Radiation  
6202J

EPA 430-F-92-013  
August 1992



# Green Lights Program



## A Bright Investment in the Environment

The U.S. Environmental Protection Agency's (EPA's) Green Lights Program is a breath of fresh air for the nation's environmental health and economic growth. Green Lights, a voluntary program that encourages the widespread use of energy-efficient lighting, is proving that environment and industry can work together to create a cost-efficient and environmentally aware America.

As part of this unique partnership, Green Lights participants—including corporations, environmental groups, electric utilities, and state, city, and local governments—have come

together to promote the widespread use of efficient lighting systems that reduce pollution. By investing in these technologies, Green Lights participants realize average returns of 25 percent, with average savings in lighting electricity bills of 50 percent or more. Through the use of these technologies, partners are reducing emissions of pollutants associated with global warming, acid rain, and smog.

As the first of similar market-driven, non-regulatory "green" programs sponsored by EPA, Green Lights is revolutionizing the way America cleans up the environment.

## Energy-Efficient Lighting Prevents Pollution

Increased energy efficiency is the cornerstone of EPA's new pollution prevention strategy. Green Lights encourages voluntary reductions in energy use through revolutionary lighting technologies.

The process by which energy-efficient lighting reduces pollution is simple. Lighting accounts for 20-25 percent of electricity used annually in the United States. Lighting for industry, businesses, offices, and warehouses represents 80-90 percent of total lighting electricity use.

Generating electricity involves the burning of fossil fuels or running a nuclear reactor or hydroelectric plant. These processes often result in various types of pollution, including acid mine drainage, oil spills, natural gas leakage, toxic waste, and air pollutants.

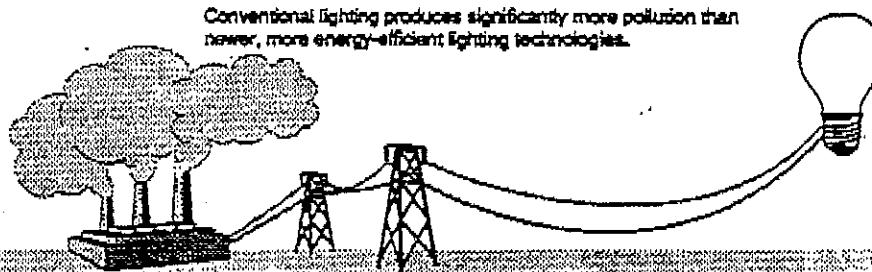
Energy-efficient lighting can reduce lighting electricity demand by over 50 percent, thereby enabling the power plant to burn less fuel. It is estimated that every kilowatt-hour of electricity avoided prevents the emission of 1.5 pounds of carbon dioxide, 5.8 grams of sulfur dioxide, and 2.5 grams of nitrogen oxides. It also reduces other types of pollution resulting from mining and transporting power plant fuels and disposing of power plant wastes.

If energy-efficient lighting were used everywhere profitable, the nation's demand for electricity could be cut by more than 10 percent. This would result in reductions of annual carbon dioxide emissions of 202 million metric tons (4 percent of the national total)—the equivalent of the exhaust emitted from 44 million cars. Reductions in annual emissions

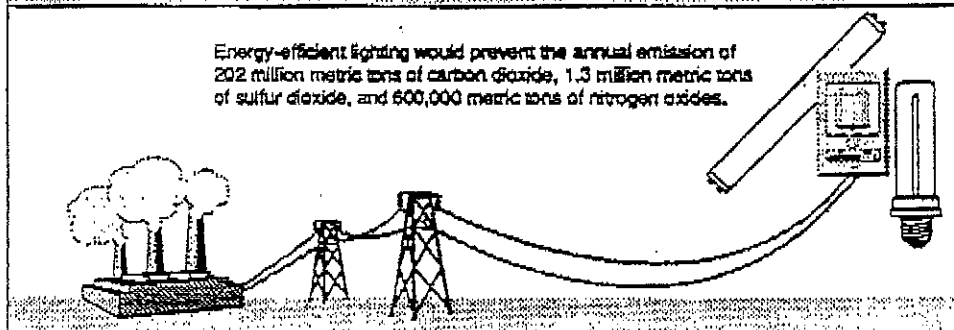
of sulfur dioxide would total 1.3 million metric tons (7 percent of the national total), and reductions in annual emissions of nitrogen oxides would amount to 600,000 metric tons (4 percent of the national total). By the year 2000, Green Lights is expected to save 226.4 billion kWh, resulting in total electricity demand savings of 39.8 million kilowatts.

### A Cleaner Approach to Lighting

Conventional lighting produces significantly more pollution than newer, more energy-efficient lighting technologies.



Energy-efficient lighting would prevent the annual emission of 202 million metric tons of carbon dioxide, 1.3 million metric tons of sulfur dioxide, and 600,000 metric tons of nitrogen oxides.



## Tackling the Barriers to Innovation

A goal of Green Lights is to encourage the widespread use of lighting technologies that use less energy. In doing so, Green Lights endeavors to reduce air pollution, while redirecting dollars toward profitable investment. Indeed, if energy-efficient lighting technologies were used nationwide, they will reduce electricity bills by \$16 billion per year.

Although the market is encouraging the use of energy-efficient lighting technologies, Green Lights is designed to tackle the barriers that impede the widespread use of these technologies.

### Common Problems

**Lighting Is a Low Priority** - Few organizations focus on the opportunity to invest in their own lighting systems.

**Lack of Information and Expertise** - Lighting information travels slowly outside the world of the lighting industry.

**Difficult Financing** - Investments in energy-efficient lighting require up-front capital.

**Restricted Markets** - Low demand for energy-efficient lighting technologies results in lack of consumer understanding about potential cost savings and enhanced lighting. Prices remain high due to small production runs.

**Split Incentives Between Landlord and Tenant** - To realize savings from a lighting upgrade, each tenant must renegotiate the lease with the landlord. The landlord rarely installs energy-efficient lighting in new construction, since utility charges are passed on to tenant.

### The Green Lights Solution

✓ Green Lights participants see lighting as an investment—a source of profits. Signing the MOU makes lighting an organizational priority.

✓ Green Lights provides informational tools to help lighting investors make an informed upgrade decision.

✓ Green Lights has developed a registry of financing resources available free of charge to all Green Lights participants.

✓ Green Lights promotes energy-efficient lighting technologies as cost-effective and high-quality products to consumers, and informs manufacturers about benefits of investing in new technologies.

✓ Green Lights is developing standard lease language that removes the split incentive barrier between landlord and tenant.

## Success Story: American Express

American Express, a Green Lights Partner since February 1991, upgraded the lighting at its 1.6 million-square-foot facility in lower Manhattan. More than 17,000 T12 "cool white" fluorescent lamps (the standard "tube" often seen in commercial lighting) were replaced with the more energy-efficient and superior quality T8 variety. The building's existing hybrid ballasts were replaced with electronic ballasts that consume less electricity, weigh less, make less noise, and create virtually no lamp flicker. Two hundred occupancy or motion sensors were installed throughout the building, reducing average annual lighting hours from 6,300 to 5,200. Motion sensors control lighting, depending on the presence of a person in the area.

As a result of the lighting upgrade, American Express has reduced the number of watt-hours by approximately 4.5 million per year. Annual savings from the project are expected to be more than \$280,000—with an internal rate of return calculated at 38 percent. The annual pollution prevented is also impressive: 785,000 pounds of carbon dioxide, 5,500 pounds of sulfur dioxide, and 3,150 pounds of nitrogen oxides.

## Giving the Green Light to Energy Efficiency

### Your Part

To become a Green Lights Partner, an organization signs a Memorandum of Understanding (MOU) with EPA. In the MOU, Green Lights participants agree to survey their facilities and, within 5 years of signing the MOU, to upgrade 90 percent of their square footage, where it is profitable and where lighting quality is maintained or enhanced. Participants also agree to appoint an implementation manager who oversees participation in the program. As of August 1992, over 600 organizations have joined Green Lights.

### EPA's Part

The MOU also states EPA's commitment to Green Lights Partners. EPA provides Partners with the following products, information, and services:

**Decision Support System** - a state-of-the-art computer software package that enables Partners to survey lighting systems in facilities, assess lighting options, and select the best energy-efficient upgrade.

**Financing Registries** - user-friendly computer data bases of every third party financing program available.

**Ally Programs** - Allies include lighting manufacturers, lighting management companies, and electric utilities that have agreed to educate customers about energy-efficient lighting.

**Endorser Program** - Endorsers are membership associations and other organizations that promote Green Lights.

**Public Recognition** - Green Lights places public-service advertising in major magazines, newspaper articles, reports on new lighting technologies, a newsletter, and other materials. To encourage participants to promote their own Green Lights activities, EPA distributes ready-to-use promotional materials.

In addition, EPA contracts and grants provide the following services:

**Lighting Services Group** - provides technical support, including a technical services hotline, workshops, and a comprehensive *Lighting Upgrade Manual*.

**National Lighting Product Information Program** - serves as "consumer reports" of lighting, making valuable product information available.



# THE HAP GAP

## What is a HAP?

- Hazardous Air Pollutants listed under Title III
- Other air contaminants with adverse health or environmental affects which are not criteria pollutants or precursors.

## What is the HAP gap?

- HAP emissions which are not subject to Title III:
  - HAPs which are not listed in Division 32
  - Existing major sources prior to adoption of MACT
  - Area sources which do not receive GACT standards

## How have HAPs been addressed by Highest and Best?

- Existing Highest and Best rule applies to all pollutants and all sources. The plain language gives the Department authority to specify case-by-case HAP permit conditions.
- A few cases, such as chemical weapons incineration, have been addressed by permit condition, but Highest and Best has not been used to comprehensively regulate all HAPs.
- Highest and Best is the basis for the interim toxics policy which evaluates HAP emissions from major new and modified criteria pollutant sources. This policy will be discontinued for Title V sources on the Title V program effective date.

## What are the alternatives?

- Implement the Title III program. Address HAP gap issues as the need arises by rule (add to Title III or adopt specific Highest and Best rules).
- Reaffirm the existing Highest and Best rule requiring the Department to establish permit conditions for specific HAP gap pollutants.
- Adopt new Highest and Best rules immediately with specific emission standards for significant existing HAP source categories.

### What are the positions of affected organizations?

- Industry feels strongly that Oregon should not exceed the federal Title III program. They believe Title III is a major expansion of HAP regulation, and that it should be fully implemented prior to any further controls. They sponsored an amendment to SB 86 intended to prevent the Department from addressing the HAP gap under Highest and Best except by specific rule. They believe that adopting HAP requirements through the formal rulemaking process provides for better public input than establishing HAP requirements in permits. In addition, they are concerned that it would be difficult to submit complete Title V permit applications which show compliance with all applicable requirements if HAP requirements are established on a case-by-case basis under Highest and Best.
- Environmental and citizen's organizations feel strongly that the gaps in the Title III program are significant. They thought that the HAP gap would be addressed by Highest and Best when they agreed to the minimum federal program under Title III. They believe that eliminating case-by-case permit authority to address HAPs under Highest and Best is unacceptable backsliding because resources may not be available to adopt rules or because the rulemaking process may not be timely. They are upset that rule negotiations were usurped by SB 86 amendments sponsored by industry.

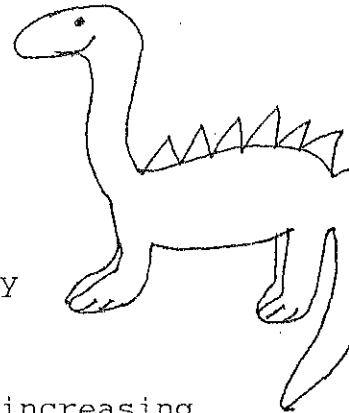
### What are the legal issues?

- The Commission has broad authority to regulate HAPs under its general authority to establish emission standards (ORS 468A.025).
- SB 86 amended ORS 468A.025 to define Highest and Best. The Commission may adopt rules to address air contaminants not otherwise regulated. The legislative history implies an intent to adopt HAP requirements by rule, not by broad authority to set permit conditions.
- ORS 468A.310 (HB 2175) requires a finding that there is a scientifically defensible need to exceed federal requirements in implementing Title V. The legislative history extends this to Title III.

FLEXTIME FOR MANAGERS - or - "Do We Send the 40-Hour, 8 to 5 Work Week to Jurassic Park?"

Good Things About Flextime/Flexdays for Managers  
(Depending on one's perspective, of course)

- Morale booster/parity with staff
- Managers get "credit" for long hours most keep anyway
- One of the few benefits we can give managers
- Acknowledges that flexibility in work schedules is an increasing reality, especially with more employees on the road/in the regions
- Managers can be on same schedule as staff on Flexdays - less unsupervised time for staff in office (huh?)
- Gives staff more opportunity to "act" as managers (yes, the punchline is obvious)
- Cuts number of commute days (the clean air argument)



Not So Good Things About Flextime/Flexdays for Managers  
(Ditto)

- Public perception; isn't this the opposite of "responsive?"
- Office coverage, or, "who is in charge around here anyway?"
- Difficulty in scheduling meetings, conference calls, etc. (as if it's not hard enough already?????)
- May increase use of "non-human" communication technology (more Voicemail -aarrgh!!!)
- Hard to keep track of who is where when (hey, when you're in town, just go to Starbucks)
- Fred doesn't like it (which makes all other arguments moot, right?)

DATE:1993-10-22

TIME:16:20

FROM:SMTP:{DEQ/MSD1/FHANSEN}:MSMAIL:DEQ

TO:DEQ/MSD1/CYOUNG, DEQ/MSD1/FHANSEN, DEQ/MSD1/HSAWYER, DEQ/MSD1/LTAYLOR,  
DEQ/ECD1/MWAHL, DEQ/WQ1/MDOWNS, DEQ/MSD1/OCLARK, DEQ/MSD1/PDALKE,  
DEQ/LAB1/RGATES, deq/hsw1/shalloc, DEQ/AQ1/SGREENW, DEQ/MSD1/TOLSON,  
DEQ/AQ1/TBISPHA

SUBJECT:FLEX SCHEDULES

PRIORITY:3

---

Good comments. I am concerned that just because we don't have management coverage sometimes--meetings outside of office or vacations(which you didn't mention)--doesn't in my mind justify having more non-coverage times. If may, however, be an argument that it doesn't hurt. Second, you make a very good point about Friday afternoons--whatever we do, for managers or classified, we must have adequate coverage all of the business day. Lastly, one of the strong concerns I have is that support staff is not disadvantaged.

Again, thanks for the thoughts. As I said, I will reconsider if my concerns can be overcome. I would like to do more for managers, particularly in these times of no other benefits and increasing workloads. The question is only if flex time or in particular flex days comes at too big a price for the job we must do.

---

REPLY FROM: HANSEN Fred FROM: HECTOR John

TO: HANSEN Fred

DATE: 10-22-93

TIME: 16:13

CC: DIVISION ADMINISTRATORS

SUBJECT: FLEX SCHEDULES

PRIORITY:

ATTACHMENTS:

At the recent QMC you were involved in a good discussion about flex schedules for managers. I stayed out of the discussion because I didn't think it would help. However, because I was a manager that also worked a flex schedule for over six years (one day off every two weeks) I think you might want my comments.

As you recall, back when Nichols and Danko were in Bend, they convinced you that a flex schedule with 9-hour days would be more efficient due to the long travel distances. When I transferred to Bend in 1986, I too began working a 9-hour flex day. Although many employees are now on "flex" I believe I was the only manager that remained on such a schedule after the Union contract provided for such schedules to represented employees. Due to your (?) or Stephanie's concern, I am no longer on the schedule and I am not sure I would now request a flex schedule if offered.

With the above comments, I believe I have some first hand experience with staff and managers using flex schedules. As I understand your primary concern, you believe there should be a management presence in the office during business hours. I agree with your concern, however we find that often the manager or managers are not in the office but attending meetings elsewhere. In my case, I think I probably average at least one day per week out of the office. For Brett, I believe he is out about two days a week.



I think this lack of manager presence is common to most field offices and I believe the offices function very well without daily management coverage.

From my perspective, the benefits of flex schedules for managers include:

- a) Provides staff oversight during non-business hours (ensures that staff meet schedule commitments and are doing productive work)
- b) Provides some increased morale to management, as evidenced during the QMC.
- c) Probably provides some increased management efficiency, at least I think I got more work done!

I am somewhat concerned that we will continue to have other problems with flex schedules. I now notice that our office is almost totally vacant on Friday afternoons, thus program coverage gets to be an issue. My other concern is that the clerical staff also want to work the 9-hour flex schedule. Thus, we may lose some clerical coverage during flex days.

Let me know if you have questions.

=====

## LETTER OF AGREEMENT

This letter of agreement is entered into by the State of Oregon, hereinafter referred to as the Employer acting by and through its Executive Department on behalf of the Department of Environmental Quality, hereinafter referred to as the Agency and the American Federation of State, County, and Municipal Employees Local 2505, hereinafter referred to as the Union.

Consistent with the Letter of Intent entered into by the Employer and the Union, May 24, 1990, regarding flex time provisions, the parties agree to the following:

(a) Work schedules shall be designated as either "regular" or "alternative." A regular schedule is five (5) consecutive eight-hour days recurring each week. An alternate schedule shall be any other work schedule. The starting and ending times during the week may vary to accommodate agency needs and specific individual needs (generally referred to as flex time). These needs include job assignments, department operational needs, transportation, child care and education related to career advancement. The starting and ending time shall be approved by the supervisor and shall not be prior to 7:00 a.m. and the ending time shall not be after 6:00 p.m. Any exception must be requested in writing and mutually agreed to by the employee and supervisor. Alternate scheduling agreed to will not impact or impair the Agency's ability to schedule or grant overtime, call-back, or other similar work assignment or scheduling.

(b) All alternative work schedules must be responsive to the operational needs of the work unit. This shall include responsiveness to others both within and outside the Agency from 8:00 a.m. to 5:00 p.m., Monday through Friday. Such scheduling may vary to meet the operational needs for Vehicle Inspection Stations, the Regions, and Laboratory.

(c) Employees on all work schedules are expected to take a one-hour lunch break. Any employee who desires a shorter lunch break shall indicate such on a work schedule form. In no event shall the meal period be less than thirty (30) minutes. Statute requires that employees begin their lunch break no later than five (5) hours after starting work, in no event would this provision be superseded by a flex schedule. Current practice regarding accommodation for rest breaks shall continue.

(d) Proposals for flexible work schedules may be initiated by a permanent full-time status employee and must be approved by the Division Administrator. Prior to approval by the Division Administrator, work unit members will work together to prepare a flex day proposal and submit it to their immediate supervisor for review and concurrence. The manager of the unit will determine each employee's schedule within the unit to insure that the work unit operational needs are met. S/he will forward the agreed upon flex day schedule to the Division Administrator with a recommendation for approval. Trial Service employees may request an alternative work schedule where it can be demonstrated that the

alternative schedule requested can be accommodated and appropriate supervision for a trial service employee is available.

(e) Where more than one (1) employee requests the same schedule and such schedule cannot be accommodated, preference will be granted on the basis of seniority within DEQ. Once a schedule has been granted, an employee may not be displaced by a more senior employee. Where seniority is the basis for a preferred alternative schedule, it may be used only once for the life of this agreement. New employees to the unit will be allowed to participate as can be reasonably accommodated within prior approved employees' schedules. Agency employees who transfer to a different unit cannot transfer their previously approved alternative schedule also. They may be accommodated upon request where such request meets the operational needs of the work unit.

(f) Alternative work schedules will initially be approved for a period not to exceed one (1) year for regular status employees. A review of alternative schedules shall occur at least annually. At the time of review, individuals will not automatically have preferred allocation of the prior schedule as stipulated under section (e) above.

(g) An alternative schedule shall not allow an employee to work more than nine (9) regularly scheduled hours each day. Overtime for employees working an alternative schedule would start after eighty (80) hours during a two (2) week scheduled work period, rather than after forty (40) hours in a one (1) week scheduled work period. In any event, overtime must have prior approval or scheduled consistent with the intent of Article 35 - Overtime in the Collective Bargaining Agreement.

(h) During a work period when a compensable holiday occurs the employee will adjust his/her work schedule within the 2-week work period to ensure a record of seventy-two (72) hours of paid time in addition to eight (8) hours of holiday leave. When the compensable holiday falls on the employee's scheduled flex day off, the employee and supervisor will mutually agree on an alternative day off within the 2-week work period. If at any time the operational needs of the work unit cannot be met, alternative schedules previously granted may be rescinded. Where such circumstances arise, the Agency shall notify the Union.

The parties agree that the rejection of an alternative work schedule request is not arbitrable or grievable, however, an appeal procedure shall include the following:

1. Where an employee's request for an alternative schedule is denied, such denial will be in writing. In those instances, the supervisor will provide an explanation for the rejection. The affected employee may file an appeal in writing to the supervisor that denied his/her request within five (5) working days of the denial.
2. Within five (5) working days of receipt of the written appeal, a hearing panel must be convened to hear the appeal. The hearing panel will be comprised of two (2) union

members and two (2) management staff. The decision of the panel is final and binding unless a deadlock occurs.

3. Where a deadlock does occur, the Director of the Department will make the final decision within five (5) working days of receipt of the deadlock. This decision is final and binding.

These provisions shall expire with the current Agreement, but may be considered by the parties for incorporation, in part or whole, to any successor Agreement.

FOR THE STATE

FOR THE UNION

\_\_\_\_\_  
Mark E. Hunt

\_\_\_\_\_  
Date

\_\_\_\_\_  
Yvonne Martinez

\_\_\_\_\_  
Date

LETTER OF INTENT

This is to acknowledge the intent of the Executive Department, State of Oregon on behalf of the Department of Environmental Quality (Agency) and the American Federation of State, County, and Municipal Employees, Local 3336 (Union) regarding the Agency's policy covering conflicts of interest.

During the negotiations for a Collective Bargaining Agreement, the Union raised concerns regarding the Agency's policy regarding conflict of interest.

The Agency shared its written conflict of interest policy with the Union (dated 11/1/77) and advised the Union that this policy was in full force and effect.

The parties agreed that this policy is meant to encourage expeditious resolutions of any potential conflicts of interest without retaliation against any employee for reporting such potential or actual conflicts.

The parties also agreed that employees and management have mutual responsibilities to work together to avoid such conflicts wherever possible.

Agreed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

FOR THE STATE OF OREGON

FOR AFSCME COUNCIL 75

\_\_\_\_\_  
Mark E. Hunt

\_\_\_\_\_  
Date

\_\_\_\_\_  
Yvonne Martinez

\_\_\_\_\_  
Date

Approved

Approved with Corrections

*Minutes are not final until approved by the EQC*

## ENVIRONMENTAL QUALITY COMMISSION

Minutes of the Two Hundred and Thirty-First Meeting  
September 10, 1993

### Regular Meeting

The Environmental Quality Commission regular meeting was convened at 8:30 a.m. on Friday, September 10, 1993, in Conference Room 3A, Oregon Department of Environmental Quality (DEQ), 811 S. W. Sixth Avenue in Portland, Oregon. The following commission members were present:

William Wessinger, Chair

Emery Castle, Vice Chair

Linda McMahan, Commissioner

Carol Whipple, Commissioner

(Commissioner Lorenzen was unable to attend this meeting.)

Also present were Michael Huston, Assistant Attorney General, Oregon Department of Justice, Fred Hansen, Director, DEQ, and other DEQ staff.

**Note:** Staff reports presented at this meeting, which contain the Department's recommendations, are on file in the Office of the Director, DEQ, 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.

#### A. Approval of minutes.

Commissioner Whipple moved that the minutes of the September 22 work session and September 23 regular meeting be approved; Commissioner Castle seconded the motion. The September 22, 1993, work session minutes and September 23, 1993, regular meeting minutes were unanimously approved (4-0).

**B. Approval of tax credits.**

The Department recommended approval of tax credit certificates for 47 applications which are listed below and approval of revision to Pollution Control Facility Certificate No. 3048 to change the name from James River II, Inc. to James River Paper Company.

Application Number	Applicant	Description
TC 3752	The Halton Company	Model SD RGF Ultrasorb Water Pretreatment Sewer Discharge System, pumping station, wash water collection pit modifications, backflow piping and devices and equipment containment building.
TC 3851	Scott Miller, Inc.	A 144' x 60' x 22' pole frame, metal clad, three sided grass seed straw storage shed.
TC 3958	Golden Valley Farms	Two (2) 22 x 100' x 208' pole construction, metal clad, grass seed straw storage sheds.
TC 3961	Vahan M. Dinikianian	A 1620 HD5 2K 40 HP hook rotor plastics granulator.
TC 3983	Portland General Electric Co.	Two STI-P3 tanks and double wall fiberglass piping, spill containment basins, tank monitor, overflow alarm, monitoring wells, sumps, automatic shutoff valves and Stage I and II vapor recovery piping.
TC 3984	Portland General Electric Co.	Two STI-P3 tanks and double wall fiberglass piping, spill containment basins, tank monitor, overflow alarm, monitoring wells, sumps, automatic shutoff valves and Stage I and II vapor recovery piping.
TC 3998	Portland General Electric Co.	Fiberglass piping, cathodic protection, spill containment basins, tank monitor, turbine leak detectors, overflow alarm, monitoring wells, sumps, automatic shutoff valves and Stage I and II vapor recovery equipment.

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Application Number	Applicant	Description
TC 3999	Portland General Electric Co.	Three double wall aboveground tanks, spill containment basins, tank monitor, overflow alarm, monitoring wells, sumps, automatic shutoff valves, an oil/water separator and Stage I and II vapor recovery equipment.
TC 4000	Portland General Electric Co.	Two fiberglass underground storage tanks, fiberglass piping, interstitial monitoring, line leak detectors, float vent valves, overflow alarms, spill containment basins and Stage II vapor recovery piping.
TC 4001	Portland General Electric Co.	Two double wall STI-P3 tanks, double wall piping, cathodic protection, spill containment basins, tank monitor, overflow alarm, monitoring wells, Sumps, automatic shutoff valves and Stage I and II vapor recovery equipment.
TC 4002	Portland General Electric Co.	Five STI-P3 tanks, double wall fiberglass piping, spill containment basins, tank monitor, overflow alarm, monitoring wells, sumps, automatic shutoff valves and Stage I and II vapor recovery equipment.
TC 4022	Western Stations Co.	Four steel/composite tanks, double wall, fiberglass piping, spill containment basins, tank monitor, turbine leak detectors, over fill alarm, monitoring wells, sumps, Stage I and II vapor recovery equipment and automatic shutoff valves.
TC 4025	Leathers Oil Co.	Four STI-P3 tanks and fiberglass piping, spill containment basins, monitoring wells, sumps, Stage II vapor recovery equipment and automatic shutoff valves.



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Application Number	Applicant	Description
TC 4033	Chevron USA, Inc.	Four double wall fiberglass underground storage tanks, double wall fiberglass piping, spill containment, overfill protection leak detection and Stage II vapor recovery equipment.
TC 4034	Chevron USA, Inc.	Spill containment basins, automatic shutoff valves and Stage II vapor recovery equipment.
TC 4035	Chevron USA, Inc.	Spill containment basins, automatic shutoff valves and Stage II vapor recovery equipment.
TC 4038	Chevron USA, Inc.	Spill containment basins, automatic shutoff valves and Stage II vapor recovery equipment.
TC 4039	Chevron USA, Inc.	Spill containment basins, automatic shutoff valves and Stage II vapor recovery equipment.
TC 4040	Chevron USA, Inc.	Spill containment basins, automatic shutoff valves and Stage II vapor recovery equipment.
TC 4041	Chevron USA, Inc.	Spill containment basins, automatic shutoff valves and Stage II vapor recovery equipment.
TC 4042	Chevron USA, Inc.	Spill containment basins, automatic shutoff valves and Stage II vapor recovery equipment.
TC 4043	Chevron USA, Inc.	Spill containment basins, automatic shutoff valves and Stage II vapor recovery equipment.
TC 4044	Chevron USA, Inc.	Spill containment basins, automatic shutoff valves and Stage II vapor recovery equipment.

Application Number	Applicant	Description
TC 4045	Chevron USA, Inc.	Spill containment basins, automatic shutoff valves and Stage II vapor recovery equipment.
TC 4050	Stein Oil Co.	Double wall fiberglass piping, spill containment basins, turbine leak detectors, sumps, automatic shutoff valves and Stage I and II vapor recovery equipment.
TC 4056	Stein Oil Co.	Double wall fiberglass piping, spill containment basins, line leak detectors, turbine leak detectors, monitoring wells, sumps, Stage I and II vapor recovery equipment and automatic shutoff valves.
TC 4057	Stein Oil Co.	Three fiberglass tanks and double wall fiberglass piping, turbine leak detectors, monitoring wells, sumps, automatic shutoff valves and Stage I and II vapor recovery equipment.
TC 4067	Atlantic Richfield Co.	One fiberglass used oil tank, spill containment basins, tank monitor, sumps, automatic shutoff valves and Stage II vapor recovery equipment.
TC 4068	Atlantic Richfield Co.	Double wall fiberglass piping, spill containment basins, tank monitor, overflow alarm, sumps, automatic shutoff valves and Stage II vapor recovery equipment.
TC 4069	Atlantic Richfield Co.	Four double wall fiberglass tanks and piping, spill containment basins, tank monitor, overflow alarm, sumps, automatic shutoff valves and Stage II vapor recovery equipment.

Application Number	Applicant	Description
TC 4076	Atlantic Richfield Co.	Double wall fiberglass piping, spill containment basins, turbine leak detectors, sumps, automatic shutoff valves and Stage II vapor recovery equipment.
TC 4077	Atlantic Richfield Co.	Double wall fiberglass piping, spill containment basins, line leak detectors, overflow alarm, sumps, automatic shutoff valves and Stage II vapor recovery equipment.
TC 4079	Atlantic Richfield Co.	Double wall fiberglass piping, spill containment basins, tank monitor, overflow alarm, sumps, automatic shutoff valves and Stage II vapor recovery equipment.
TC 4093	Roseboro Lumber Co.	Three double wall fiberglass tanks and piping, spill containment basins, tank monitor with overflow alarm, automatic shutoff valves and Stage I vapor recovery equipment.
TC 4095	Grunder Equipment Repair	Truck washing/degreasing pad with a zero discharge wash water recycling system.
TC 4097	Robert W. Hays & Michael J. Moran	Four double wall fiberglass tanks and piping, spill containment basins, tank monitor, line and turbine leak detectors, overflow alarm automatic shutoff valves, oil/water separator and Stage II vapor recovery piping.
TC 4098	Bi-Mor Stations, Inc.	Four fiberglass tanks and piping, spill containment basins, tank monitor, line and turbine leak detectors, overflow alarm, monitoring wells, oil/water separator, automatic shutoff valves, Stage I vapor recovery and Stage II piping.

Application Number	Applicant	Description
TC 4103	Norma and Itha Reiling	A 120' x 120' x 27' steel frame, metal clad grass seed straw storage building
TC 4105	Hockett Farms	A 22' x 100' x 130' steel frame, metal clad, grass seed straw storage building.
TC 4108	Temp Control Mech Corp.	Air conditioner/refrigerant coolant recovery equipment.
TC 4109	Temp Control Mech Corp.	Air conditioner/refrigerant coolant recovery equipment.
TC 4110	Temp Control Mech Corp.	Air conditioner/refrigerant coolant recovery and recycling equipment.
TC 4111	Temp Control Mech Corp.	Air conditioner/refrigerant coolant recovery equipment.
TC 4112	Temp Control Mech Corp.	Air conditioner/refrigerant coolant recovery equipment.
TC 4113	Western Stations Co.	Three fiberglass/steel composite tanks, double wall fiberglass piping, spill containment basins, tank monitor, overflow alarm, monitoring wells, sumps, oil/water separator, automatic shutoff valves and Stage I and II vapor recovery equipment.
TC 4114	McCracken Motor Freight, Inc.	A secondary containment structure for two above ground fuel storage tanks, an oil/water separator and associated piping and valves.
TC 4116	Riverside Jeep/Eagle	Automobile air conditioner coolant recovery and recycling equipment.

Commissioner Castle moved that the Department recommendations be approved. The motion was seconded by Commissioner Whipple and unanimously approved.

**C. Rule adoption: Federal operating permit program rules and hazardous air pollutant control rules.**

This agenda item proposed new rules/rule amendments for implementation of a federal operating permit program required by the federal Clean Air Act Amendments (CAA) of 1990. The proposed rules require that certain procedures be followed, especially with respect to air quality permitting and determining compliance with underlying applicable or substantive requirements. The proposed rules also contain provisions for controlling emissions of hazardous air pollutants.

Director Hansen introduced the agenda item. He indicated that the rules represent a major shift in federal requirements under the CAA Amendments of 1990 and rules adopted by the U. S. Environmental Protection Agency (EPA). Director Hansen said the federal rules allow for some flexibility and also have some explicit requirements. He said that if the rules are not adopted by the Commission and not implemented by the DEQ then EPA would implement the program. He added that the states have had a lack of guidance from EPA to develop this program and other states (Oregon included) have been used as models.

Director Hansen told the Commission that the rules represent the next major milestone in the CAA. Oregon is one of five states that have met all the deadlines. He said the advisory committee was very involved in this rule package and added that as the Department moves into implementation of this new permit program, adjustments and fine tuning of some of the issues will be made and addressed by the advisory committee.

Air Quality Administrator Steve Greenwood told the Commission that the rule package represented a substantial amount of advisory committee and staff work. He went on to say that there are always a number of sides to an issue, and he appreciated the advisory committee's approach in coming to agreement and closure on the rule package.

Wendy Sims, Air Quality Division, provided background information on the rule package. She said that the DEQ has an Air Contaminant Discharge Permit Program (ACDP) for 1,100 sources which represent simple to complex operations. Ms. Sims indicated the new EPA required program takes the top layer of the most complex existing sources (approximately 150) and takes in hazardous air pollutant sources not currently regulated (approximately 150).

She said that the rule development had been a long process, and the Department has worked closely with the EPA Regional Office and national EPA staff to clarify requirements and make sure the program is approved by EPA. Ms. Sims told the Commission that the Department used new measures to communicate to the public and affected industries. An ED-NET presentation was used to educate and draw interested persons into the process early on. Staff met with industry groups, prepared a Rule Discussion Document that describes the rules and what industry needs to do to comply with the rules, a quarterly newsletter was established and distributed, five hearings were held statewide and over 400 comments were received.

Ms. Sims introduced an addendum to the staff report which presented technical corrections to the proposed rule amendments. She also outlined the changes made to four rule divisions:

- Division 28 Some of this division was moved over from existing Division 20. The Title V program rules are also within this Division.
- Division 32 This division covers the 189 new hazardous air pollutants (HAP) and provides a framework for regulating HAPs. As the EPA develops new requirements, the Department will propose new rules to this division. The division also contains rules to control emissions from new and modified sources and a voluntary reduction program.
- Division 14 This existing division contains procedural requirements that apply agency wide. The proposed rules exempt Title V sources from conforming to these rules, since the rules proposed today contain procedures. These changes were included in the public mailing to interested persons, however, they were not listed in the Secretary of State's *Bulletin*.
- Division 20 Most of the rules in this division are relocated to Division 28.

Ms. Sims also highlighted the following points of the rules to the Commission:

- Insignificant activities. This rule was the most time consuming. The Department believes this rule has been developed as much as possible until experience can be gained in implementing the program.

- Residual HAP emissions. This rule applies to new construction, and, if after controls are applied, there are emissions above the residual levels.

Chair Wessinger asked about the ramifications of these points. Ms. Sims replied that Title III of the CAA requires the EPA to promulgate technology-based standards for different industries. She said the Department's concern is with emissions from new major sources. The technology-based standards do not consider ambient effect of emissions.

Director Hansen added that the EPA develops the technology-based standard from the top 12 percent of existing sources. He said Congress had indicated in the CAA that the states would start with technology, and, ultimately, eight years later the EPA would examine residual risk.

Ms. Sims added that the concern with technology-based standards is with the percentage of emissions that are uncontrolled. The de minimis levels will trigger when the Department will look at whether the emissions coming out are still acceptable. If the emissions are less than the de minimis levels, it will be a safe assumption that the emissions are adequate. If the emissions are greater than the de minimis levels, then the Department will want to examine this issue more closely. She said that sources have three options: 1) perform an analysis that the emissions greater than the de minimis are still acceptable; 2) install further controls; or 3) opt to do nothing. If a source elects to do nothing and the Department believes more control is needed, the Department will be back before the EQC requesting rule adoption to control the emissions.

Commissioner Whipple asked if the de minimis values for any pollutants are zero; Ms. Sims replied no. Director Hansen added that one of the reasons for the Residual Emission Rule is that the technology-based standards do not take into account factors like volume of pollutants emitted and source location.

Commissioner McMahan asked if there are new chemicals being regulated under the Residual Rule; Ms. Sims indicated yes, that 189 new chemicals were added. Director Hansen said that some of the chemicals are carcinogens, others are hazardous in other ways. He said the Department has not regulated HAPs extensively, however, some have been regulated in other ways.

Commissioner Whipple asked if there would have been any difference in recent major industrial fines if these new rules had been in place. Director Hansen responded that no, companies by oversight missed significant regulatory program requirements. He added that an important issue in the proposed program is greater self-monitoring and that criminal enforcement is also possible. Ms. Sims added that under the new program, companies will know sooner when a problem occurs (through self-monitoring) and provide correction sooner.

Ms. Sims continued with highlights to the rules. She said one change in the rules was that the Department initially proposed 14 days for the public to request a public hearing on a proposed permit. The rules before the Commission for adoption have been changed to 30 days. Most of the other Department programs have 30 days. Director Hansen said this change will provide consistency across Department programs. Commissioner Whipple asked if review by the EPA was an additional requirement. Ms. Sims said that yes, the EPA has 45 days after public comment to review the permit. This is similar to the National Pollutant Discharge Elimination System (NPDES) program.

Other rules were highlighted:

- Applicable requirements. This is an issue discussed with the advisory committee. The Department recommended permit conditions in existing permits roll over to the new permits unless the source can demonstrate the conditions are no longer applicable.

Ms. Sims said that forms and permit guidance along with these rules must be submitted to the EPA before November 15, 1993. She said the Department expects the EPA will take the full year granted to review the Federal Operating Program submittal package. This one-year period gives the Department a unique opportunity to use a pilot group and work closely with sources on forms and other implementation materials. She added the Department may want to revise the rules before the program becomes effective. Once the program is approved, the Department has three years to issue all the permits, one-third each year.

The Department will be back before the Commission in October with changes to the State Implementation Plan (SIP) rules and fees, both required as part of the November 15, 1993, submittal package to the EPA.



Arno Denecke, Advisory Committee Chair, spoke to the Commission. He said that chairing the committee was a learning experience. Judge Denecke said the committee was no rubber stamp committee, that the public, environmentalists and business representatives all had very different questions. He said chairing the committee was a challenge, balancing interests and getting consensus; and, while the committee could not reach consensus on all issues, the staff made wise choices. Judge Denecke added that he believed the advisory committee process is a good process of sifting through required rules and regulations and presenting those proposed rules to the Commission.

Chair Wessinger thanked all those involved.

Jim Whitty, Associated Oregon Industries (AOI) spoke to the Commission. He said that the AOI was very pleased with the process and pleased that Judge Denecke was selected as chair. He indicated that the Department's work had been outstanding. Mr. Whitty said that the committee has been working on this proposed rule package for two-and-half years on many difficult issues. He said that what started as a battle in Washington, D.C., with the passage of the CAA in 1990 has continued at the state level, particularly with significant issues and details left to the states. Industry has been fully involved and attended all advisory committee and subcommittee meetings. Mr. Whitty continued that there has been an impressive amount of creativity shown by Department staff. He said that for the most part, the rule package was satisfactory; however, there were two remaining issues detailed in an AOI September 10, 1993, letter to the Department.

First, Mr. Whitty recommended changes to the definition of applicable requirements so that existing permit terms without rule and statutory authority not carry over to the new permits. Second, in regard to insignificant activities, he indicated that AOI was not satisfied with the rule which he believed referenced the Standard Industrial Codes (SICs).

Al Mick and Rick Garber, Boise Cascade, told the Commission that they recently attended a nationwide workshop and internal meetings to learn about new permitting requirements. Mr. Mick said that other states are providing many options for insignificant activities. He indicated that the Department is more restrictive than any of other states such as Illinois, Alabama and Texas. Mr. Mick said that Alabama also had a list of *trivial activities* that they are using. He urged the Commission to expand the list to reduce the facilities' workload.

Commissioner Castle asked what would happen if his company sold a new product and needed to convince the seller that the new product line met certain specifications; Mr. Mick responded that his company would develop information that the performance specifications had been met. He added that the Oregon PSEL covers all the emissions, insignificant included. He said PSEL is not used in other states and not subject to compliance, and that the EPA and Congress did not intend enforcement standards for insignificant sources. He said that he understood the rule could be modified based on experience with the pilot program. Boise Cascade will begin developing their permit application and wants to volunteer for the Department's pilot program. Mr. Mick emphasized that Oregon should not discount other states' approaches.

Mr. Garber said that there is concern only with the state enforcement limits on insignificant activities; other states are not requiring quantifying the aggregate emissions.

After a short break, Ms. Sims presented an amendment to the insignificant activities rule language which covered the AOI's concern. Director Hansen said the federal law does not allow states to alter (backslide) existing permit conditions in implementing the new Title V program. He said the existing permits contain a number of different requirements, that a number of cases are a result of permit negotiation, many conditions reflect the airshed and the particular standards. The current language provides that the existing permit conditions slide into the new permits unless the Department determines otherwise. He indicated that the AOI takes a different approach and says they slide in unless the source shows no current rule or statute applies to the condition. Director Hansen added that there are many issues (e.g., PSEL) that are not explicitly referenced in the rule. He said that the Department would like to suggest that as the pilot permit project becomes implemented, the Department examine this issue and commit to re-examining the issue again in a year.

Chair Wessinger said that this same theory applies to insignificant activities and will be addressed over a period of time. He suggested that basic components of the rules should be left as written with the idea that adjustments will be made over time. Commissioner Castle agreed with the Chair.

Ms. Sims summarized the Department's recommendation: to adopt the rules as presented in Attachments B, C, D, and E of the staff report, as modified by the addendum provided at the meeting, and as further modified by the handwritten amendments regarding insignificant activities.

Commissioner Castle moved adoption of the Department's recommendation, with modifications as discussed. The motion was seconded by Commissioner McMahan and unanimously approved (4-0).

**D. Approval of biennial programs for communities seeking to use the assessment deferral loan program during 1993-95.**

The Assessment Deferral Loan Program (ADLP) or Sewer Safety Net was implemented by the 1987 Legislature. The program is intended to address financial hardship related to sewer assessments on low income homeowners who live in areas where collector sewers are mandated by the state. The 1993 Legislature approved a budget of \$5,863,021 for the program in 1993-95. Four cities plan to use ADLP funds: Eugene, Gresham, Oregon and Portland. The Sewer Safety Net programs of each community to receive funds must be approved by the Commission.

Director Hansen provided a brief summary of this agenda item, and Martin Loring, Water Quality Division, gave the Commission a short explanation of the ADLP.

The Department recommended approval of the ADLPs presented by the cities of Eugene, Gresham, Oregon City and Portland and the supporting findings presented in the staff report.

Commissioner Castle moved approval of the ADLPs. The motion was seconded by Commissioner Whipple and unanimously approved.

**E. Report on the 1993 legislative session.**

Olivia Clark, the Department's Legislative Liaison, highlighted the major actions of the 1993 Legislative Assembly. She said that the Department took a *no business as usual* approach in developing its 1993 legislative agenda. The Department sought to increase efficiencies, pollution prevention strategies and measures that empowered others and encouraged partnership. Ms. Clark indicated that new initiatives such as the liveable communities project were approved and support continued for achieving healthy air quality, cleaning up hazardous waste sites and protecting water quality. She briefly discussed the following bills:

- Environmental crimes: this law will provide Oregon with the criminal authority to prosecute extreme violations of environmental law knowingly committed and which damage the environment or pose a serious threat to public health.

- Air quality: Senate Bill 86 will allow Oregon to operate the federal industrial air pollution permitting program and represents a shift toward regulating hazardous industrial air pollution. House Bill 2214, directs and authorizes the EQC to adopt a specific air quality maintenance plan for the Portland area, principally patterned after recommendations of the Governor's Task Force on Motor Vehicle Emissions Reductions in the Portland area.
- Lower Columbia River Bi-state water quality study: approved continuation of the cooperative effort between Oregon and Washington to study the water quality of the lower Columbia River system. The joint effort will identify water quality problems and trace their sources, determine if beneficial users are impaired and develop solutions to those problems.
- Technical assistance to the regulated community: approved continuing increased technical assistance, outreach and responsiveness to the regulated community.
- Watershed health and management: authorized a pilot watershed management project in priority watersheds to focus on achieving sustainable, comprehensive watershed health. The pilot will use voluntary local watershed councils to prepare and implement watershed actions programs to address short- and long-term needs in each basin.

Ms. Clark also provided a list of other bills that passed that may affect the Department as follows:

- State Revolving Fund (House Bill 2070)
- Agricultural Practices Act (Senate Bill 1010)
- Lane Regional Air pollution Authority (House Bill 2847)
- Ethanol Tax Credit Sunset (House Bill 2456)
- Solid Waste Statute Rewrite (Senate Bill 42)
- RCRA Subtitle D - Landfills (Senate Bill 1012)
- UST Financial Assistance (House Bill 2776)
- Constitutional Amendment Related to Environmental Clean Up) (House Joint Resolution 69)
- Rigid Plastics Recycling (Senate Bills 641 and 1009)
- Recycling of Household Oil (House Bill 1014)
- Solid Waste Fees (Senate Bills 1036 and 1037)
- Orphan Site Clean Up (House Bill 3177)
- Drug Lab Clean Up (House Bill 2381)
- Soil Pile Aeration (Senate Bill 315)

- Oil Heat Commission (Senate Bill 1015)
- Agency Rulemaking Procedures (House Bill 2262)
- Government Reorganization (Senate Bill 1130)

**F. Commission member reports.**

There were no Commission member reports.

**G. Director's report.**

Central City Management Plan: The Department has been working with the city of Portland, Metro, Tri-Met and business community to develop a central city plan. That plan would replace the lid in downtown Portland with extended parking ratios and other policies to ensure clean air and less traffic congestion. This work will ultimately need to be incorporated into a SIP revision to the EPA.

While the details of the plan are not yet completed, preliminary modelling shows that the plan will result in air that meets federal standards for carbon monoxide. Elements of the plan include an extension of parking ratios beyond downtown to the Lloyd Center district, an increase in transit service to the central city and a high-growth development plan to increase housing and commercial density in the central city area.

The Department will be returning soon to the Commission with more information about the plan along with a presentation by the city of Portland.

Combined Sewer Overflow (CSO) Review: Dates and locations for the meetings in the DEQ\Portland CSO collaborative process have been set. The first meeting will be October 18. The Department is working with the city to develop detailed agendas and public involvement materials.

Guide Dogs: A petition for review has been filed with Clackamas County Circuit Court on the Guide Dogs for the Blind permit. The petition was filed by Derald Bleu and Donna Weatherspoon. The matter is being handled by the Attorney General's Trial Division in Salem.

Northwest Environmental Defense Council (NEDC) Appeal: NEDC has appealed the *Permit as a Shield* rule. The record has been forwarded to the Attorney General's Appellate Division for filing with the Court of Appeals. Bill Kloos is the attorney for NEDC in this case.

Oregon Environmental Council (OEC)/Sierra Club Lawsuit: The Department is implementing the settlement agreement reached in the OEC/Sierra Club lawsuit. The permit modifications on New Source Review requirements have been appealed. The Department is negotiating with the parties and hope to reach resolution without needing to refer the matter to a hearings officer.

Vehicle Inspection Survey: The Department is conducting a customer survey at vehicle inspection stations. The first quarter results show a high approval rating. The Department surveyed more than 300 people, those who passed and those who failed. The average rating on a scale of 1 to 5, with 5 being the highest, was 4.4 for all stations. Four stations had a rating of 4.5 or higher. Even the lowest station had an average overall rating of 4.0.

The Clackamas station ranked the highest, with an average 4.7 rating for inspector attitude, and a 100 percent rating for politeness and courtesy. This station now has a banner which says: *#1 in Customer Service*.

Subtitle D Municipal Landfill Criteria Implementation Dates: The effective date for Federal Subtitle D criteria setting standards for location, design, operation and post-closure care for municipal solid waste landfills was established as October 9, 1993. Other requirements (groundwater monitoring, financial assurance) are phased in at later dates.

The EPA has proposed rule changes which would extend the effective date of the Subtitle D criteria for two categories of smaller landfills. The EPA intends to publish a final rule before October 9 but may not meet the deadline.

In the March 1993 revision of the solid waste management rules, the Commission adopted the Subtitle D criteria by reference, including specific adoption of the October 9, 1993, effective date for all municipal solid waste landfills.

Because many smaller landfill operators including local governments encountered difficulties in either complying with the new federal criteria by the effective date or in closing existing landfills and developing alternative means of solid waste management, the EPA's proposed rule would allow an extra six months for small landfills (those receiving 100 tons a day or less of solid waste) to meet most of the criteria. The EPA has also proposed that very small landfills (receiving less than 20 tons a day) be allowed an extra two years to meet the criteria. Most compliance dates would remain unchanged for only large landfills (those receiving more than 100 tons of solid waste a day or 12 Oregon facilities).

The Department recommends that our rules remain consistent with federal requirements. That would require a temporary rule to change the effective date for *small* and *very small* landfills from October 9, 1993, to whatever dates are finally adopted by EPA rule for these facilities. A temporary rule could require a Commission conference call if the Federal rule is adopted between EQC meeting dates.

### **Public Forum**

**Lauri Aunan, Coryon Redd and Dan Kostrezewski**, Oregon State Public Interest Research Group (OSPIRG), spoke to the Commission about pyrolysis, the burning of plastics. Ms. Aunan said that the plastics industry wants the definition of recycling to be redefined to include burning. She said that OSPIRG strongly believes in reduce, reuse and recycle which are preferable over burning and landfilling. Ms. Aunan concluded by stating that burning is not recycling. Mr. Kostrezewski told the Commission that he had spoken with a great many people about recycling. He said they liked recycling and that it is something that makes an impact. Mr. Kostrezewski indicated that people asked why more plastic cannot be recycled. He said that incineration is not a substitution or a solution. Mr. Redd submitted approximately 17,000 petitions about not allowing pyrolysis to be redefined as recycling. He said that he had worked on Senate Bill 66 (recycling bill). Mr. Redd indicated that cooperation was needed in marketing of recycled plastics. He urged the Commission to ensure that rules maintained the idea of reuse.

Chair Wessinger said that Europe was ahead of the states in recycling plastics. Ms. Aunan replied that Europe was far ahead and that they had adopted good legislation. She said that manufacturers must take back 80 percent of all packaging. Ms. Aunan did indicate that there is a plastics market development problem in Germany.

Director Hansen added that the debate of pyrolysis is recycling versus energy recovery. He said the Commission must consider this issue.

### **H. Work session discussion:**

- **Economic benefit - recovering the economic gain of non-compliance; and**
- **Inability to pay - calculating a violator's ability to pay a civil penalty.**

Ed Druback of the Department's Enforcement Section presented an overview of how the Department has been calculating the economic benefit (EB) received by a violator due to noncompliance. In July of 1992, the Commission adopted new rules which required the Department to consider EB in the enforcement process. It was explained that the Department has been calculating EB using three different methodologies:

1. The direct cost avoided is used where compliance would have required a single expenditure and no significant time has elapsed;
2. The direct cost avoided plus interest is used where compliance would have required a single expenditure and a significant amount of time had expired; and
3. The EPA BEN computer model is used in cases of delayed compliance where capital expenditures together with ongoing operations and maintenance would have been required to gain compliance.

The Commission was presented with an example of how BEN calculates the economic benefit received and a brief description of the operating principles of the model. The Commission questioned how the Discount Rate was determined for use in BEN. Mr. Druback explained that the Discount Rate was calculated by using the corporate weighted average cost of capital (WACC) over the last ten years. WACC is determined by determining the amount of debt financing (low risk/low interest rate) and equity financing (high risk/high interest rate) being used by the average corporation. Mr. Druback explained that earlier versions of BEN had come under fire because the EPA had used only the higher equity financing to determine the Discount Rate but this objection to the BEN model were for the version prior to 1991.

A discussion of how the Department was calculating a violator's inability to pay followed. For corporations, the Department has access to the EPA inability to pay model (ABEL). The Department's Business Office had developed procedures to determine ability to pay for individuals and smaller companies.

The Commission was advised that due to a recommendation from the Enforcement Advisory Committee and after consultation with the Attorney General's Office, the Enforcement Section would be requesting rule changes to incorporate the use of BEN and ABEL into the Enforcement Procedures (Division 12 of Oregon Administrative Rule Chapter 340).



**I. Work session discussion: Environmental performance measures.**

Elana Stampfer, Office of the Director, introduced the topic of performance measures used at the Department. She said that performance measures are quarterly evaluations of how the agency is doing. The performance measures are done by program, with some additional measures for agency management. Ms. Stampfer stated that the purpose of this work session item was to introduce the Commission to the concept of performance measurement and to inform them of the performance information available. Chair Wessinger suggested that this may be a Commission retreat topic.

Steve Greenwood presented the air quality measures. Mary Wahl discussed the measures for environmental clean up. Ms. Wahl indicated that there are four measures for which there are no data, so the program plans to change those measures. Neil Mullane and Martin Loring presented the water quality measures. They raised some concerns about how performance measurement will continue after reorganization. Dave St. Louis, Roy Brower and Pat Vernon discussed the hazardous and solid waste measures. They plan to add a new measure of hazardous waste technical assistance. Ms. Stampfer finished by briefly discussing the agency management measures. Director Hansen talked about how the measure of wellness (percentage of sick leave used versus accrued) is interesting to track in terms of health and morale.

**Other Business:**

The Commission discussed meeting dates for 1994 and about having a one-day local retreat on October 28. The remaining 1993 meeting dates and 1994 meetings dates are listed below; the location and time for the retreat was yet to be decided.

1993 EQC Meeting Dates

October 28 (one-day, local retreat)  
October 29 (regular meeting)  
December 9-10

1994 EOC Meeting Dates

January 27-28  
March 10-11  
April 21-22  
June 3  
July 21-22  
August 25-26  
October 20-21  
December 1-2

There was no further discussion, and the meeting was adjourned at about 1:50 p.m.

## Environmental Quality Commission

- Rule Adoption Item
- Action Item
- Information Item

Agenda Item B  
October 29, 1993 Meeting

**Title:**

Approval of Tax Credit Applications

**Summary:**

Attachment A of the staff report presents the Department's evaluation and recommendation for certification of 23 tax credit applications with a total facility cost of \$5,347,421 as follows:


- 2 Solid Waste Landfill facilities with a total facility cost of \$ 4,083,717.
- 11 Water Quality facilities having a total facility cost of \$ 819,764.
- 4 Air Quality facilities with a total facility cost of \$ 362,422.
- 3 Solid Waste Recycling facilities with a total facility cost of \$ 65,930.
- 1 Plastics Recycling facility costing \$ 8,549; and
- 2 CFC Air Quality facilities having a total facility cost of \$ 7,039.

Three of the applications have facility costs exceeding \$ 250,000; two are Solid Waste Landfill facilities and the third is a Water Quality facility. These applications have been reviewed by independent contractors selected by the Department. The contractor review statements are provided with the application review reports.

Of the landfill applications that of Oregon Waste Systems, Inc. was received by the DEQ on December 28, 1993, prior to the date the revised rules became effective. Boise Cascade's application arrived at the DEQ on January 19, 1993, also before the February 1, 1993 effective date. However, the facility would not have been affected by the rule revisions because it neither generates income nor is it integral to the operation of the business. The Background section of the attached Memorandum presents a discussion of the application of the revised rules governing pollution control facilities that are integral to the operation of a business to three of the applications contained in this report.

**Department Recommendation:**

- 1) Approve the issuance of tax credit certificates for 23 applications as presented in Attachment A of the staff report.

  
Report Author

  
Division Administrator

  
Director

October 11, 1993

†Accommodations for disabilities are available upon request by contacting the Public Affairs Office at (503)229-5317(voice)/(503)229-6993(TDD).

State of Oregon  
Department of Environmental Quality

Memorandum<sup>†</sup>

Date: October 29, 1993

To: Environmental Quality Commission  
From: Fred Hansen, Director *Judicia Taylor*  
Subject: Agenda Item B, October 29, 1993 EQC Meeting

Approval of Tax Credit Applications

**Statement of the Need for Action**

This staff report presents the staff analysis of pollution control facilities tax credit applications and the Department's recommendation for Commission action on these applications. The following is a summary of the applications presented in this report:

**Tax Credit Application Review Reports:**

Application Number	Applicant	Description
TC 2996	Norpac Foods, Inc.	A sprinkler irrigation system to reduce the application rate of industrial wastewater.
TC 3808	Mt. Emily Seeds	A pneumatic waste collection system, bagfilters and two semi-trailers for preventing grass seed particulate emissions to the atmosphere.
TC 3864	Portland General Electric Company	A fueling station for mobile equipment consisting of two double-walled steel tanks with interstitial containment, thermal protection, vents, valves and fiberglass piping.
TC 3898	J.C. Compton Contractor, Inc.	A CMI RA-318P Portable Fabric Filter Pollution Control System (portable baghouse).

<sup>†</sup>A large print copy of this report is available upon request.

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TC 3913	Wally F. Ackerman	An Amuson 400-T Wastewater Recycling System consisting of a flush booth, water holding tank, water treatment tank and related pumping system.
TC 3924	Paul Medina Dairy	A 30 H.P. pump, an above-ground glass lined steel holding tank and related plumbing and electrical works.
TC 3933	Rexius Forest By-Products, Inc.	A closed-loop oil/water separation recycling system for treating wastewater discharge.
TC 3936	Columbia Steel Casting Co., Inc.	A US Air Filtration cartridge-type dust collector and support equipment.
TC 3981	Portland General Electric Company	A fueling station for mobile equipment consisting of two above-ground steel tanks, concrete liner for secondary containment, overfill sump and alarm and associated valves, vents and dispensers.
TC 3982	Portland General Electric Company	A fueling station for mobile equipment consisting of a above-ground, double-walled steel tank, concrete liner for secondary containment, overfill sump and alarm and associated valves, vents and dispensers.
TC 3996	Portland General Electric Company	A fueling station for mobile equipment consisting of a above-ground, double-walled steel tank, concrete liner for secondary containment, overfill sump and alarm and associated valves, vents and dispensers.
TC 4023	Portland General Electric Company	A fueling station for mobile equipment consisting of two above-ground, double-walled steel tanks, concrete liner for secondary containment, overfill sump and alarm and associated valves, vents and dispensers.

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TC 4046	United Grocers, Inc.	A Model V6-60-2 Vertical Downstroke Baler for processing plastic stretch wrap waste product.
TC 4088	Vahan M. Dinihanian	A 5,600 sq.ft. pole construction type building with concrete slab floor for storage and processing of recycled plastic containers.
TC 4089	Vahan M. Dinihanian	Injection molding dies used for processing recycled plastic.
TC 4115	Calbag Metals Company	An oil/water separator constructed on a 50' x 100' concrete paved area for the treatment of storm water runoff.
TC 4127	Boise Cascade Corporation	A three unit surge bin and support equipment for elimination of fugitive emissions to the atmosphere.
TC 4132	Alton L. Jager	Seven on-site recycling depots for recycling plastic waste products.
TC 4133	Mel's B.P., Inc.	A CFC facility including pumps, tubing, valves and filters for removing and cleaning auto air conditioner coolant.
TC 4134	Towler Refrigeration	A CFC facility including pumps, tubing, valves and filters for removing and cleaning air conditioner/commercial refrigerant coolant.

**Tax Credit Application Review Reports With Facility Costs Over \$250,000  
 (Accountant Review Reports Attached):**

Application Number	Applicant	Description
TC 3948	Oregon Waste Systems, Inc.	A cell liner and leachate collection system for module four of the Columbia Ridge Landfill and Recycling Center.

Application Number	Applicant	Description
TC 3963	Boise Cascade Corporation	A top liner, surface drainage and gas collection system for the completed portion of a clarifier solids industrial landfill.
TC 4018	Portland General Electric Company	An internal storm drainage and oil spill collection and containment system.

### **Background**

Application reports 3948, Oregon Waste Systems, 3963, Boise Cascade Corporation and 4115, Calbag Metals provide examples of the application of the revised rules governing pollution control facilities that are integral to the operation of a business.

The Oregon Waste Systems, Inc. facility is a commercial landfill cell liner and leachate collection system and, as such, is a pollution control facility that is integral to the operation of a firm in the business of pollution control. The facility would have been covered by the revised rules except for the fact that the application was received by the DEQ before the effective date of the rule revisions (2/1/93). The Boise Cascade facility is also a landfill liner, including a surface drainage and gas collection system. However the facility, which generates no income, is not integral to the operation of the business because it does not notably impact the business operations of the firm. The Calbag Metals Company is in the business of pollution control as defined by the revised rules i.e., scrap metal (solid waste) recycling. However, the facility, a water pollution control facility, is not integral to the operation of the applicant's business and generates no income.

Taken together, these applications provide an outline of the scope of the revised rules governing pollution control facilities that are integral to the operation of an applicant's business.

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**Authority to Address the Issue**

ORS 468.150 through 468.190 and OAR 340-16-005 through 340-16-050 (Pollution Control Facilities Tax Credit).

ORS 468.925 through 468.965 and OAR 340-17-010 through 340-17-055 (Reclaimed Plastic Product Tax Credit).

**Alternatives and Evaluation**

None.

**Summary of Any Prior Public Input Opportunity**

The Department does not solicit public comment on individual tax credit applications during the staff application review process. Opportunity for public comment exists during the Commission meeting when the applications are considered for action.

**Conclusions**

- o The recommendations for action on the attached applications are consistent with statutory provisions and administrative rules related to the pollution control facilities and reclaimed plastic product tax credit programs.



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o Proposed October 29, 1993 Pollution Control Tax Credit Totals:

<u>Certificates</u>	<u>Certified Costs*</u>	<u>No.</u>
Air Quality	\$ 362,422	4
CFC	7,039	2
Field Burning	0	0
Hazardous Waste	0	0
Noise	0	0
Plastics	8,549	1
Solid Waste - Recycling	65,930	3
Solid Waste - Landfills	4,083,717	2
Water Quality	819,764	11
UST	0	0
<b>TOTALS</b>	<b>\$ 5,347,421</b>	<b>23</b>

Calendar Year Totals Through September 30, 1993:

<u>Certificates</u>	<u>Certified Costs*</u>	<u>No.</u>
Air Quality	\$ 3,248,754	22
CFC	97,998	35
Field Burning	02,590,437	32
Hazardous Waste	0	0
Noise	0	0
Plastics	23,548	3
Solid Waste - Recycling	1,389,511	10
Solid Waste - Landfills	6,017,022	4
Water Quality	19,495,690	19
UST	5,793,693	54
<b>TOTALS</b>	<b>\$ 38,656,653</b>	<b>179</b>

\* These amounts represent the total facility costs. To calculate the actual dollars that can be applied as credit, the total facility cost is multiplied by the determined percent allocable of which the net credit is 50 percent of that amount.

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**Recommendation for Commission Action**

It is recommended that the Commission approve certification for the tax credit applications as presented in Attachment A of the Department Staff Report.

**Intended Followup Actions**

Notify applicants of Environmental Quality Commission actions.

**Attachments**

A. Pollution Control Tax Credit Application Review Reports.

**Reference Documents (available upon request)**

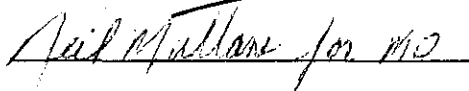
1. ORS 468.150 through 468.190.
2. OAR 340-16-005 through 340-16-050.
3. ORS 468.925 through 468.965.
4. OAR 340-17-010 through 340-17-055.

Approved:

Section:



Division:



Report Prepared By: Charles Bianchi

Phone: 229-6149

Date Prepared: October 11, 1993

Charles Bianchi  
TCOCT.EQC  
Sept.29, 1993

State of Oregon  
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Norpac Foods, Inc.  
Stayton Plant #1  
P.O. Box 458  
Stayton, OR 97383

The applicant owns and operates a food processing plant in Stayton Oregon.

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

2. Description of Facility

The claimed facility is a sprinkler irrigation system for the application of cannery wastes to 75 acres of land. The additional irrigation will reduce the application rate to the existing cropland. It includes 7,700 feet of buried irrigation mainline, 6 valves, 12 big gun sprinklers and 47 acres of additional land.

Claimed Facility Cost: \$164,634  
(Accountant's Certification was provided).

3. Procedural Requirements

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

The facility met statutory deadline in that installation of the facility was substantially completed on February 14, 1992 and the application for certification was found to be complete on July 22, 1993, within 2 years of substantial completion of the facility.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with a requirement imposed by the Department to control a substantial amount of water pollution. This control is accomplished by the use of treatment works for industrial waste as defined in ORS 468B.005.

The applicant was issued a NPDES Waste Discharge Permit which allows irrigation of wastewater in accordance with their wastewater management plan.

A construction approval and preliminary certification for tax credit was issued on June 30, 1989.

The applicant is in compliance with the conditions of the NPDES permit.

b. Eligible Cost Findings

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

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

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

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

There is no return on the investment for this project.

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

Alternative methods considered to reduce the application rate to cropland included additional storage, water conservation, and river discharge. Additional storage was rejected because it was too costly, and would reduce the amount of cropland available for application. Conservation is being practiced. Plant water has been reduced 27% since 1988. River discharge is not allowable.

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

There are no savings from the facility. The cost of maintaining and operating the facility is \$3,510 annually.

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

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

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

5. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.
- b. The facility is eligible for tax credit certification in that the principal purpose of the facility is to comply with a requirement imposed by the Department to control water pollution and accomplishes this purpose by the use of treatment works for industrial waste as defined in ORS 468B.005.
- c. The facility complies with DEQ statutes and rules, and permit conditions.
- d. The portion of the facility cost that is properly allocable to pollution control is 100%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$164,634 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-2996.

William J. Perry  
(503) 378-8240  
20 Sept 93

State of Oregon  
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Mt Emily Seeds Inc.  
dba Barenbrug USA  
PO Box 159  
Imbler, OR 97841

The applicant owns and operates a grass seed storage and cleaning facility for grass seed in Boardman, Oregon.

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

2. Description of Facility

The claimed facility prevents the atmospheric emission of particulate generated by the grass seed cleaning process from the applicants warehouse. The facility consists of a pneumatic waste collection system, bagfilters, and two semi-trailers.

Claimed Facility Cost: \$90,801.32

A distinct portion of the facility makes an insignificant contribution to the principal purpose of pollution control. The applicant claimed costs for equipment which removes waste material from the work site. The Department requested the applicant to determine the portion of the waste collection system allocable to air pollution control. The applicant submitted that \$49,107.44 of the facility costs is allocable to air pollution control. This estimate is based on the portion of the waste collection system which removes particulate from the air stream. The Department concurs with this assessment.

Adjusted Facility Cost: \$49,107.44

Accountant's Certification was provided.

The applicant indicated the useful life of the facility is fifteen years.

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 June 30, 1991 and placed into operation on July 1, 1991. The application for final certification was submitted to the Department on June 18, 1992. The application was found to be complete on June 16, 1993, within two years of substantial completion of the facility.

4. Evaluation of Application

a. Rationale For Eligibility

The facility is eligible because the principal purpose of the facility is to comply with a requirement imposed by the Department to control air pollution. This is in accordance with OAR Chapter 340, Division 21, Rule 030. The emission reduction is accomplished by preventing the emission of air contaminants as defined in ORS 468A.005.

The claimed facility consists of dust collectors, fans, ducting, an auger conveying system, and trailers for the removal of waste particulate from the work site. Each dust collector consists of bagfilters housed within a hopper. The facility prevents the atmospheric emission of particulate from the applicants dust collection system.

Dust and screenings generated by the seed cleaning process is blown into five 48 inch dust collectors, a 60 inch collector, and a 96 inch dust collector. The particulate accumulates on the surface of the bagfilters and periodically falls to the bottom of each hopper. The dust collection fans draw particulate from the bottom of the hoppers and from remaining sources generated by the cleaning and bagging equipment. All of the waste material generated by the seed cleaning and bagging processes are delivered by the dust collection system to a 132 inch by 72 inch dust collector. The collected particulate is passed through an air lock by an auger conveyor into modified semi-trailers located outside the warehouse.



b. Eligible Cost Findings

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

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

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

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

The applicant indicates in the application there is no income or savings from the facility, so there is no return on the investment.

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

Bagfilters are technically recognized as an acceptable method for controlling the emissions of particulate from pneumatic waste transport systems.

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

There are no savings from the facility. The cost of maintaining and operating the facility is \$1,570.00 annually.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air pollution.

The eligible facility costs have been determined to be \$49,107.44 after adjusting for a distinct portion of the facility which is not eligible for tax credit certification. This is discussed in section 2 of this report.

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 deadlines.
- b. The facility is eligible for final tax credit certification in that the principal purpose of the facility is to comply with a requirement imposed by the Department to reduce air pollution.
- c. The facility complies with DEQ statutes 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 \$49,107.00 with 100% allocated to pollution control be issued for the facility claimed in Tax Credit Application No. TC-3808.

BKF

April 29, 1993

State of Oregon  
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

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

The applicant operates an investor owned electric utility with operations throughout Oregon.

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

2. Description of Facility

The new facility is a mobile fueling station comprised of double-walled steel tanks with interstitial containment, thermal protection, vents, valves and fiber glass piping to the dispenser.

Claimed Facility Cost: \$43,048.40  
(Accountant's Certification was provided).

Eligible Facility Cost: \$38,483.40

The eligible costs are:

Double-Walled Tanks	\$13,200.00
Piping	5.00
Rigid Insulation Jacket	5,000.00
Labor & Materials	15,705.00
Overhead	<u>4,573.40</u>
Total	\$38,483.40

3. Procedural Requirements

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

The facility met statutory deadline in that construction and installation of the facility was substantially completed on May 1, 1991 and the application for certification was filed on September 25, 1992, within 2 years of substantial completion of the facility.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with a requirement imposed by the federal Environmental Protection Agency to prevent water pollution. This control is accomplished by the installation of the new aboveground double-walled tanks to prevent the discharge of industrial waste as defined in ORS 468B.005.

In accordance with federal requirements, electric utilities must provide secondary containment facilities where fuel-filled equipment is utilized.

Prior to installation of the above ground double-walled tanks, three underground steel tanks without leak detection or spill containment were used. The double-walled tanks have secondary containment between the outer and inner layers of steel and drastically reduce the risk of an undetected spill, which could contaminate soils and groundwater.

b. Eligible Cost Findings

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

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

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

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

There is no revenue generated from this facility and therefore, no return on investment.

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

Two other options were considered by the applicant. Option one was to upgrade existing tanks and piping with leak detection, corrosion protection and spill/overflow protection. A second option that was considered was to install new underground tanks to meet applicable requirements. The option that was selected (the aboveground double-walled tanks) provided the most protection at the least cost.

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

There is no savings that would be realized as a result of the installation of the tanks.

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

The cost of installing two bare steel tanks and the associated piping was subtracted from the Claimed Facility Cost to determine the Eligible Facility Cost.

##### 5. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.
- b. The facility is eligible for tax credit certification in that the principal purpose of the facility is to comply with a requirement imposed by the federal Environmental Protection Agency to prevent water pollution and accomplishes this purpose by the containment of industrial waste as defined in ORS 468B.005.
- 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 \$38,483.00 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-3864.

Rajeev Kapur  
(503) 229-5185  
MW\WC11\WC11841.5  
20 Sept 93



received by the Department on October 26, 1992. The application was found to be complete on September 9, 1993, within two years of substantial completion of the facility.

4. Evaluation of Application

a. Rationale For Eligibility

The facility is eligible because the principal purpose of the facility is to comply with a requirement imposed by the Department to control air pollution. This is in accordance with OAR Chapter 340, division 25, rule 575. The air contaminant Discharge Permit for this source, 37-0402, requires the permittee to limit the emissions of particulate to the atmosphere. The emission reduction is accomplished by the elimination of air contaminants as defined in ORS 468A.005.

The claimed facility controls the emissions of particulate generated in the manufacture of hot mix asphalt. The facility consists of a portable support structure, fabric filters, fans, a compressor, an auger, and support equipment.

The portable baghouse is a stand alone unit connected to the asphalt plant's exhaust by ducting. The exhaust stream is drawn into the baghouse with a 15 horsepower motor located between the exhaust stack and baghouse. The exhaust gas stream is drawn from the asphalt plant through a vertical chamber to the dust hopper of the baghouse. The velocity decreases at this point causing the heavier particulate to drop into the hopper. The exhaust gas stream continues upward through an array of hanging fabric filters located over the hopper. The remaining particulate accumulates on the surface of the filters and is periodically shaken off with blasts of compressed air. The entrained particulate is removed from the hopper with a screw auger. The filtered exhaust is drawn through the fan and emitted from the stack.

b. Eligible Cost Findings

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



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

The facility does not recover or convert waste products into a salable or usable commodity. The material collected by the facility is disposed of in a landfill.

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

The average annual cash flow is \$1,124.00 which results from the value of the operational savings of the baghouse compared to the operational costs of the water scrubber. Dividing the average annual cash flow into the cost of the facility gives a return on investment factor of 146. Using Table 1 of OAR 340-16-30 for a useful life of ten years gives an annual return on investment of 0%. As a result, the percent allocable is 100%.

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

Baghouses are technically recognized as an acceptable method for controlling the emissions of particulate from hot mix asphalt plants.

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

The decrease in average annual operating expenses of the baghouse compared to the operating costs of the water scrubber water scrubber is \$1,124.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air pollution.

The eligible facility costs have been determined to be \$164,590.00 after adjusting for the salvage value of the pre-existing pollution control equipment. This is discussed in section 2 of this report.

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 deadlines.
- b. The facility is eligible for final tax credit certification in that the principal purpose of the facility is to comply with a requirement imposed by the Department to control air pollution.
- c. The facility complies with DEQ statutes, rules, and permit conditions.
- d. The portion of the facility cost that is properly allocable to pollution control is 100%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$164,590.00 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-3898.

BKF:AQ

September 20, 1993

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

---

1. Applicant

Wally F. Ackerman  
2430 Main Street  
Springfield, Oregon 97477

The applicant owns and operates a radiator repair shop in Springfield, Oregon.

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

2. Description of Facility

The facility is an Amuson 400-T Wastewater Recycling System. It includes a flush booth, water holding tank, water treatment tank, and related pumping system. This is a closed loop system for cleaning radiators

Claimed Facility Cost: \$12,975  
(Accountant's Certification was provided).

3. Procedural Requirements

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

The facility met statutory deadline in that construction of the facility was substantially completed on June 14, 1992, and the application for certification was found to be complete on May 12, 1993, within 2 years of substantial completion of the facility.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with a requirement imposed by the City of Springfield to prevent water pollution. The City required the applicant to refrain from discharging wastewater into the city storm drain. This prevention is accomplished by the use of treatment works for industrial waste as defined in ORS 468B.005.

The system collects, treats, and recycles all wastewater without any discharge. This meets the City of Springfield requirements, and the requirements of the Department's pollution control program.

b. Eligible Cost Findings

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

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

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

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

There is no return on the investment for the claimed facility as no income is generated by the facility.

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

The applicant has not identified and is not aware of alternative methods for achieving the same objective. It is the Department's determination that the proposed facility is an acceptable method for achieving the pollution control objective.

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

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

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

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

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

5. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.
- b. The facility is eligible for tax credit certification in that the principal purpose of the facility is to comply with a requirement imposed by the City of Springfield to prevent water pollution. This prevention was accomplished by the use of treatment works for industrial waste as defined in ORS 468B.005.
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 100%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$12,975 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-3913.

William J. Perry:  
(503) 378-8240  
20 Sept 93

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

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1. Applicant

Paul Medina Dairy  
7000 High Banks Rd.  
Central Point, Oregon 97502

The applicant owns and operates a dairy in Central Point, Oregon.

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

2. Description of Facility

The facility consists of an in-ground concrete reception tank, a 30 H.P. manure pump, an above ground glass lined steel holding tank and related plumbing and electrical works. Wastewater is collected in the reception tank and pumped to the above-ground tank for storage. The wastewater is applied to the fields by means of an underground mainline to a sprinkler or slurry wagon.

Claimed Facility Cost: \$53,124  
(The total cost of the facility which the Accountant certified is \$88,124. The U.S.D.A. Agricultural Stabilization and Conservation Service reimbursed the applicant \$35,000. The applicant's own cash investment in the claimed facility is \$53,124.)

3. Procedural Requirements

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

The facility met statutory deadline in that construction of the facility was substantially completed on October 24, 1991 and the application for certification was found to be complete on August 16, 1993, within 2 years of substantial completion of the facility.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with a requirement imposed by the Department, to reduce a substantial amount of water pollution. This control is accomplished by the use of treatment works for industrial waste as defined in ORS 468.700.

The applicant was issued a confined animal feeding operation (CAFO) General Permit No. 800 which prohibits direct or indirect discharge of animal wastewater to state waters. The permit requires that a waste management plan be implemented using the Oregon Animal Waste Installation Guidebook as a basis for planning, designing and implementation.

The U.S.D.A. Soil Conservation Service designed the waste management system and partially funded the construction of the wastewater treatment system. The applicant is in compliance with the conditions of the CAFO permit.

b. Eligible Cost Findings

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

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

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

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

There is no return on the investment for this facility

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

Two additional alternatives were considered; using above ground concrete tanks for storage, or using an earthen lagoon with an aerator. Two concrete tanks would have been required for the same amount of storage and the cost would have been comparable. The lagoon system was rejected because of unsightliness, odor, and safety considerations.

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

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

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

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

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

## 5. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.
- b. The facility is eligible for tax credit certification in that the principal purpose of the facility is to comply with a requirement imposed by the Department, to control water pollution and accomplishes this purpose by the use of treatment works for industrial waste as defined in ORS 468B.005.
- c. The facility complies with DEQ statutes and rules and permit conditions.



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

Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$53,124 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-3924.

William J. Perry  
(503) 378-8240  
20 Sept 93

State of Oregon  
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Rexius Forest By-Products, Inc.  
Truck Shop  
P.O. Box 2276  
Eugene, OR 97402

The applicant owns and operates a truck shop in Eugene, Oregon.

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

2. Description of Facility

The facility is a closed loop oil/water separation recycling system for the area where trucks are washed.

Claimed Facility Cost: \$28,201.  
(Accountant's Certification was provided).

3. Procedural Requirements

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

The facility met statutory deadline in that construction, of the facility was substantially completed on October 1, 1992 and the application for certification was found to be complete on May 12, 1993, within 2 years of substantial completion of the facility.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with a requirement imposed by the City of Eugene to prevent water pollution. On May 19, 1992, the City of Eugene Fire Inspector ordered the applicant to discontinue discharge of wastewater from the steam cleaner, and the pump island to the City storm drain. This prevention is accomplished by the use of treatment works for industrial waste as defined in ORS 468B.005.

A system was installed which collects, treats, and recycles all waste water, without discharge. This system meets the City of Eugene's requirements, and complies with the Department's pollution control program.

b. Eligible Cost Findings

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

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

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

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

There is no savings or income from the installation and therefore, there is no return on investment.

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

Other systems were available to remove oil and grease, but would require discharge into the sanitary sewer. There would have been hookup charges, and sewer system fees. If the system malfunctioned, pollutants could be discharged directly into the sewer system.

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

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

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

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

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

5. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.
- b. The facility is eligible for tax credit certification in that the principal purpose of the facility is to comply with a requirement imposed by the City of Eugene to prevent water pollution, and accomplishes this purpose by the use of treatment works for industrial waste as defined in ORS 468B.005.
- 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 \$28,201 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-3933.

WJP:crw  
(503) 378-8240

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

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1. Applicant

Columbia Steel Casting Co., Inc.  
10425 N. Bloss Ave.  
PO Box 83095  
Portland, OR 97283

The applicant owns and operates steel casting foundry in Portland, Oregon.

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

2. Description of Facility

The facility controls the emissions of iron dust emitted by a steel shot blast cast parts cleaning machine. The facility consists of a US Air Filtration cartridge type dust collector and support equipment.

Claimed Facility Cost: \$45,947.20

A distinct portion of the claimed facility does not have a principal purpose of pollution control. The applicant claimed cost for equipment used to control indoor air quality. This function is performed by removing dust produced by the shot blast machine out of the work area. The ineligible equipment consists of the ducting, which extends from the shot blast machine inside the plant to the dust collector outdoors, and a portion of the duct collectors fan system. The portion of the fan which is necessary to pull the exhaust stream through the dust collector is allocable to pollution control. The applicant estimates 90% of the static pressure in the system is necessary to draw the shot blast exhaust air stream through the filter. Based on this estimate the applicant and Department concur costs for the ducting, 10% of the fan, and 10% of the electrical wiring are not allocable to pollution control.

Ineligible costs: \$8,604.60

Adjusted facility cost: \$37,342.60

Accountant's Certification was provided.

The applicant indicated the useful life of the facility is 7 years.

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 July 31, 1991 and placed into operation on August 1, 1991. The application for final certification was received by the Department on December 21, 1992. The application was found to be complete on July 13, 1993, within two years of substantial completion of the facility.

4. Evaluation of Application

a. Rationale For Eligibility

The facility is eligible because the principal purpose of the facility is to comply with a requirement imposed by the Department to control air pollution. This is in accordance with OAR Chapter 340, Division 21, sections 015 through 030. The air contaminant Discharge Permit for this source, 26-1869, item 2 requires the permittee to control the emission of particulate to the atmosphere. The emission reduction is accomplished by the elimination of air contaminants as defined in ORS 468A.005.

The claimed facility controls the emission of iron particulate generated by a Pangborn steel tumblast cleaning machine. The tumblast throws steel shot against small parts castings to remove welding slag and heat treat scale. The system fan draws dust from the tumblast cleaning machine out of the work area through ducting into the US Air filter.

The claimed facility consists of a US Air Filtration model 12 DCP Dust Collector. Installation of the facility required a foundation, a fan, structural and electrical materials, and mechanical and electrical labor. The ducting attaches to the top of the filter housing. The air stream is drawn through a cluster of cartridges by the system fan. Each cartridge is a cylinder which collects particulate on the outside and allows air to flow

through the inside. The filtered air passes through the system fan and is emitted to the atmosphere. The accumulated particulate is removed by periodic reverse pulses of air directed to individual cartridges. The particulate collects in the bottom of the dust collector which is emptied two to three times a month. The particulate is then mixed with water and removed to a landfill.

b. Eligible Cost Findings

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

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

The facility does not recover or convert waste products into a salable or usable commodity. The material collected by the facility is disposed of in a landfill.

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

There is no income or savings from the facility, so there is no return on the investment.

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

Cartridge filters are technically recognized as an appropriate method for controlling the emissions of particulate to the atmosphere.

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

There are no savings from the facility. The cost of maintaining and operating the facility is \$4,500.00 annually.

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

prevention, control or reduction of air pollution.

The eligible facility costs have been determined to be \$37,342.60 after adjusting for distinct portions of the facility which do not have the principal purpose of pollution control. This is discussed in section 2 of this report.

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

5. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.
- b. The facility is eligible for final tax credit certification in that the principal purpose of the facility is to comply with a requirement imposed by the Department to control air pollution.
- c. The facility complies with DEQ statutes, rules, and permit conditions.
- d. The portion of the facility cost that is properly allocable to pollution control is 100%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$37,343.00 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-3936.

BKF:aq

August 16, 1993



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

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1. Applicant

Portland General Electric Company  
121 S.W. Salmon Street, 1WTC-10  
Portland, Oregon 97204

The applicant owns and operates a maintenance facility including a vehicle fueling station located at Faraday Development, 33831 S.E. Faraday Road, in Estacada, Oregon.

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

2. Description of Facility

The claimed facility consists of a fueling station for mobile equipment consisting of two steel above-ground tanks, concrete liner for secondary containment, overflow sump and alarm, and associated valves, vents and dispensers. The claimed facility replaces three bare, single wall steel underground storage tanks with no leak detection or overflow protection. The facility is intended to protect water quality by preventing or containing leaks and overfills.

Claimed Facility Cost: \$49,690  
(Accountant's Certification was provided).

3. Procedural Requirements

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

The facility met statutory deadlines in that installation of the facility was substantially completed on September 25, 1992, and the application for certification was found to be complete on August 30, 1993, within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the sole purpose of the facility is to prevent a substantial quantity of water pollution. This prevention is accomplished by installation of facilities which will be used to prevent spills or unauthorized releases.

b. Eligible Cost Findings

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

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

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

The percent allocable determined by using this factor would be 100%.

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

The facility produces no income, therefore the percent annual return on investment is zero.

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

The underground storage tanks at the site could have been replaced and upgraded to current standards, but this option was found to be more expensive than the claimed facility.

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

There are no savings or increase in costs.

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

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

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

5. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.
- b. The facility is eligible for tax credit certification in that the sole purpose of the facility is to prevent a substantial quantity of water pollution. This prevention is accomplished by installation of facilities which will be used to 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 \$49,690 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-3981.

(George F. Davis):(GFD)  
(T-3981)  
(503) (229-6385 x 242)  
(August 31, 1993)

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

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1. Applicant

Portland General Electric Company  
121 S.W. Salmon Street, 1WTC-10  
Portland, Oregon 97204

The applicant owns and operates a maintenance facility including a vehicle fueling station located at the Beaver Generating Plant, 80997 Kallunki Road, in Clatskanie, Oregon.

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

2. Description of Facility

The claimed facility consists of a fueling station for mobile equipment consisting of one double-walled steel above-ground tank, concrete liner for secondary containment, overflow sump and alarm, and associated valves, vents and dispensers. The claimed facility replaces a bare, single wall underground fuel storage tank with no leak detection or overflow protection. The facility is intended to protect water quality by preventing or containing leaks and overfills.

Claimed Facility Cost: \$64,894  
(Accountant's Certification was provided).

3. Procedural Requirements

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

The facility met statutory deadline in that installation of the facility was substantially completed on September 29, 1992, and the application for certification was found to be complete on August 30, 1993, within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the sole purpose of the facility is to prevent a substantial quantity of water pollution. This prevention is accomplished by installation of facilities which will be used to prevent spills or unauthorized releases.

b. Eligible Cost Findings

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

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

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

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

The facility produces no income, therefore the percent annual return on investment is zero.

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

The underground storage tanks at the site could have been replaced and upgraded to current standards, but this option was found to be more expensive than the claimed facility.

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

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

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

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

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

5. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.
- b. The facility is eligible for tax credit certification in that the sole purpose of the facility is to prevent a substantial quantity of water pollution. This prevention is accomplished by installation of facilities which will be used to 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 \$64,894 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-3982.

(George F. Davis):(GFD)  
(T-3982)  
(503) (229-6385 x 242)  
(August 31, 1993)

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

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1. Applicant

Portland General Electric Company  
121 S.W. Salmon Street, 1WTC-10  
Portland, Oregon 97204

The applicant owns and operates a maintenance facility including a vehicle fueling station located at 13151 S.E. Bull Run Road, Sandy, Oregon.

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

2. Description of Facility

The claimed facility consists of a fueling station for mobile equipment consisting of one double-walled steel above-ground tank, concrete liner for secondary containment, overflow sump and alarm, and associated valves, vents and dispensers. The claimed facility replaces a bare, single wall underground fuel storage tank with no leak detection or overflow protection. The facility is intended to protect water quality by preventing or containing leaks and overfills.

Claimed Facility Cost: \$37,354  
(Accountant's Certification was provided).

3. Procedural Requirements

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

The facility met statutory deadline in that installation of the facility was substantially completed on January 11, 1993, and the application for certification was found to be complete on August 30, 1993, within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the sole purpose of the facility is to prevent a substantial quantity of water pollution. This prevention is accomplished by installation of facilities which will be used to prevent spills or unauthorized releases.

b. Eligible Cost Findings

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

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

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

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

The facility produces no income, therefore the percent annual return on investment is zero.

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

The underground storage tanks at the site could have been replaced and upgraded to current standards, but this option was found to be more expensive than the claimed facility.

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

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

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

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

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

5. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.
- b. The facility is eligible for tax credit certification in that the sole purpose of the facility is to prevent a substantial quantity of water pollution. This prevention is accomplished by installation of facilities which will be used to 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 \$37,354 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-3996.

(George F. Davis):(GFD)  
(T-3996)  
(503) (229-6385 x 242)  
(August 31, 1993)

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

1. Applicant

Portland General Electric Company  
121 S.W. Salmon Street, 1WTC-10  
Portland, Oregon 97204

The applicant owns and operates a vehicle fueling station located at 305 N. Springbrook St., in Newberg, Oregon.

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

2. Description of Facility

The claimed facility consists of a fueling station for mobile equipment consisting of two double-walled steel above-ground tanks, concrete liner for secondary containment, overflow sump and alarm, and associated valves, vents and dispensers. The claimed facility replaces three bare, single wall underground fuel storage tanks with no leak detection or overflow protection. The facility is intended to protect water quality by preventing or containing leaks and overfills.

Claimed Facility Cost: \$80,608 (adjusted)  
(Accountant's Certification was provided).

3. Procedural Requirements

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

The facility met statutory deadline in that installation of the facility was substantially completed on December 31, 1992, and the application for certification was found to be complete on August 30, 1993, within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the sole purpose of the facility is to prevent a substantial quantity of water pollution. This prevention is accomplished by installation of facilities which will be used to prevent spills or unauthorized releases.

b. Eligible Cost Findings

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

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

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

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

The facility produces no income, therefore the percent annual return on investment is zero.

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

The underground storage tanks at the site could have been replaced and upgraded to current standards, but this option was found to be more expensive than the claimed facility.

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

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

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

The applicant reduced the claimed cost of the facility by \$9 in a letter to the Department dated May 4, 1993. The claimed facility cost was reduced as follows:

Claimed facility cost (original)	\$80,617
<u>Claimed cost reduction</u>	<u>&lt;9&gt;</u>
Claimed facility cost (adjusted)	80,608

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

5. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.
- b. The facility is eligible for tax credit certification in that the sole purpose of the facility is to prevent a substantial quantity of water pollution. This prevention is accomplished by installation of facilities which will be used to 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 \$80,608 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-4023.

(George F. Davis):(GFD)  
(T-4023)  
(503) (229-6385 x 242)  
(August 31, 1993)



Application No. TC-4046

State of Oregon  
Department of Environmental Quality

RECLAIMED PLASTIC TAX CREDIT  
TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

United Grocers, Inc.  
P. O. Box 22187  
Portland, OR 97269-2187

The applicant owns and operates a grocery warehouse business in Milwaukie, Oregon. The applicant unpacks and distributes groceries to retailers. Used plastic stretch wrap is a waste product of the applicant's normal business activities.

Application was made for Reclaimed Plastic Tax Credit.

2. Description of Equipment, Machinery or Personal Property

Claimed Investment Cost: \$8,549.00 consisting of:

Model V6-60-2 Vertical Downstroke Baler, Serial No. 9305119 to be used exclusively to process obsolete, non-reusable, stretch wrap.

An invoice was provided.

3. Procedural Requirements

The investment is governed by ORS 468.925 through 468.965, and by OAR Chapter 340, Division 17.

The investment met all statutory deadlines in that:

- a. The request for preliminary certification was received on April 19, 1993. The preliminary application was filed complete on April 22, 1993.
- b. The request for preliminary certification was approved on April 22, 1993, before the application for final certification was made.
- c. The investment was made on August 4, 1993, prior to June 30, 1995.
- d. The request for final certification was submitted on September 3, 1993 and was filed complete on September 8, 1993.

4. Evaluation of Application

- a. The investment is eligible because the equipment is necessary to process reclaimed plastic.
- b. Allocable Cost Findings

In determining the portion of the investment costs properly allocable to reclaiming and recycling plastic material, the following factors from ORS 468.960 have been considered and analyzed as indicated:

- 1) The extent to which the claimed collection, transportation, processing or manufacturing process is used to convert reclaimed plastic into a salable or usable commodity.

This factor is applicable because the sole purpose of this baler is to process waste plastic for return to the manufacture and eventual recycling into a reclaimed plastic product. The used stretch wrap was previously disposed of as solid waste.

- 2) The alternative methods, equipment and costs for achieving the same objective.

The applicant investigated other balers and determined that this equipment was most economical and effective to handle the used stretch wrap.

- 3) Any other factors which are relevant in establishing the portion of the actual cost of the investment properly allocable to the collection, transportation or processing of reclaimed plastic or to the manufacture of a reclaimed plastic product.

There are no other factors to consider in establishing the actual cost of the investment properly allocable to reclaiming and recycling plastic material.

The actual cost of the investment properly allocable to processing reclaimed plastic as determined by using these factors is 100%.

5. Summation

- a. The investment was made in accordance with all regulatory deadlines.
- b. The investment is eligible for final tax credit certification in that the equipment is necessary to process reclaimed plastic.
- c. The qualifying business complies with DEQ statutes and rules.
- d. The portion of the investment cost that is properly allocable to reclaiming and recycling plastic is 100%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Reclaimed Plastic Tax Credit Certificate bearing the cost of \$8,549.00 with 100% allocated to reclaiming plastic material, be issued for the investment claimed in Tax Credit Application No. TC-4046.

WRB:wrb  
wp51\tax\tc4046rr.sta  
(503) 229-5934  
September 21, 1993

Application No. T-4088

STATE OF OREGON  
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Vahan M. Dinihanian  
15005 N. W. Cornell Road  
Beaverton, OR 97006

The applicant owns and operates a holly farm and supply company which includes the manufacture of holly wreath rings from recycled plastic. Application was made for tax credit for a solid waste pollution control facility.

2. Description of Facility

The facility is a 5600 square foot pole barn type building on a concrete slab to be used for the storage and processing of obsolete plastic drinking water jugs. The obsolete water jugs are collected, stored, processed, and eventually recycled into plastic holly wreath backing rings. The storage building is used exclusively for the plastic jug recycling operations.

Claimed facility cost: \$ 39,541.00

Copies of invoices and an accountant's statement were provided.

3. Procedural Requirements

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

The facility met all statutory deadlines in that:

- a. Installation of the facility was started on February 1, 1991.
- b. The facility was substantially completed by June 1, 1992.
- c. The application for tax credit was submitted to the Department on May 21, 1993.
- d. The application was found to be technically complete and was filed on August 13, 1993, within two years of substantial completion of the facility.

4. Evaluation of Application

- a. The facility is eligible because the sole purpose of the claimed facility is to reduce a substantial quantity of solid waste through recycling.
- 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.

This factor is applicable because the material stored in this building is subsequently processed and used to manufacture a reclaimed plastic product. If the water jugs were not collected and processed they would be disposed of as solid waste.

The percent allocable by using this factor would be 100%.

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

There is no direct income from the claimed facility. A pro-ratio based on the level of capital investment of the income for their total wreath ring manufacturing activities was used to calculate the estimated annual return on investment for the storage building. From this we calculated the estimated annual return on investment for the building. As a result, using Table 1, OAR 340-16-030, the return on investment for the claimed facility is 0.5%. Using Revised Table 2 OAR 340-16-030 the percent allocable is 96%.

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

The applicant has not identified and is not aware of alternative methods for achieving the same material recovery objective. It is the Department's determination that the proposed facility is an acceptable method of achieving the material recovery objective.

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

There are no savings associated with the purchase or use of this facility.

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

There are no other factors to consider in establishing the actual cost of the facility properly allocable to material recovery from solid waste.

The actual cost of the facility properly allocable to pollution control as determined by using these factors is 96%.

5. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.
- b. The facility is eligible for tax credit certification in that the sole purpose of the facility is to reduce a substantial quantity of solid waste through recycling.
- c. The facility complies with DEQ statutes and permit conditions.
- d. The portion of the facility cost that is properly allocable to pollution control is 96%.

6. Director's Recommendation

Based upon the findings, it is recommended that a Pollution Control Facility certificate bearing the cost of \$39,541.00 with 96% allocable to pollution control be issued for the facility claimed in Tax Credit Application No. T-4088.

WRB:wrb  
wp51\tax\tc4088RR.STA  
(503)229-5934  
September 22, 1993

Application No. T-4089

STATE OF OREGON  
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Vahan M. Dinihanian  
15005 N. W. Cornell Road  
Beaverton, OR 97006

The applicant owns and operates a holly farm and supply company which includes the manufacture of holly wreath rings from recycled plastic. Application was made for tax credit for a solid waste pollution control facility.

2. Description of Facility

The facility is injection molding dies used to produce a plastic wreath backing ring from recycled plastic. The feedstock used in the dies to manufacture the rings is reclaimed plastic from obsolete drinking water bottles. These bottles, which can no longer be reused, are collected and processed for this specific purpose.

Claimed facility cost: \$ 20,613.00

Copies of invoices and an accountant's statement were provided.

3. Procedural Requirements

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

The facility met all statutory deadlines in that:

- a. Installation of the facility was started on June 1, 1989.
- b. The facility was substantially completed and placed into operation on August 31, 1991.
- c. The application for tax credit was submitted to the Department on May 21, 1993.
- d. The application was found to be technically complete and was filed on August 13, 1993 within two years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the sole purpose of the claimed facility is to reduce a substantial quantity of solid waste through recycling.

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.

This factor is applicable because the material processed by the facility is recovered and manufactured into a new product. If the obsolete plastic containers were not collected for recycling they would be disposed of as solid waste.

The percent allocable by using this factor would be 100%.

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

There is no direct income from the claimed facility. A pro-ratio based upon the level of capital investment of the income for the total wreath ring manufacturing activities was used to calculate the estimated annual return on investment for the molding die. From this figure we calculate the estimated annual return on investment for the dies. As a result, using Table 1, OAR 340-16-030, the return on investment for the claimed facility is 0.5%. Using Revised Table 2, OAR 340-16-030 the percent allocable is calculated to be 96%.

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

The applicant has not identified and is not aware of alternative methods for achieving the same material recovery objective. It is the Department's determination that the proposed facility is an acceptable method of achieving the material recovery objective.

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

There are no savings associated with the purchase or use of this facility.



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

There are no other factors to consider in establishing the actual cost of the facility properly allocable to material recovery from solid waste.

The actual cost of the facility properly allocable to pollution control as determined by using these factors is 96%.

5. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.
- b. The facility is eligible for tax credit certification in that the sole purpose of the facility is to reduce a substantial quantity of solid waste through recycling.
- c. The facility complies with DEQ statutes and permit conditions.
- d. The portion of the facility cost that is properly allocable to pollution control is 96%.

6. Director's Recommendation

Based upon the findings, it is recommended that a Pollution Control Facility certificate bearing the cost of \$20,613.00 with 96% allocable to pollution control be issued for the facility claimed in Tax Credit Application No. T-4089.

State of Oregon  
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Calbag Metals Company  
P.O. Box 10067  
Portland, Oregon 97210

The applicant owns and operates a nonferrous scrap metals company in Portland, Oregon.

An application was made for a tax credit for a water pollution control facility.

2. Description of Facility

The facility consists of both (1) a 50 foot by 100 foot concrete paved area that is used for the storage of scrap metals and is located to the rear of the processing plant, and (2) an oil/water separator constructed within the paved area to treat storm water runoff from the site. The useful life of the facility is twenty years.

The applicant purchases scrap metals and resells them to be melted into new metals. The suppliers of the metals include large industrial companies, other scrap dealers and recyclers, tradespeople, and the general public. Hoppers from industrial suppliers are stored outdoors until the metals can be sorted. Generally, the hoppers are not covered. Storm water entering the hopper would contact any oil, grease, or other contaminants left on the material. The polluted runoff would leave the hopper and enter either surface waters or groundwater around the storage site. The applicant decided to prevent the water pollution by paving a 50 foot by 100 foot portion of the lot located to the rear of the processing plant so that contaminated runoff or spills would not directly contact surrounding soils and enter groundwater. In addition, an oil/water separator has been installed within the paved area to collect and treat the contaminated runoff and spills or leaks of oil, grease, or other contaminants from the hoppers. The oil/water

separator is connected to the City of Portland combined sewer system.

Claimed Facility Cost: \$25,311  
(An Accountant's Certification was provided).

3. Procedural Requirements

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

The facility met the statutory deadline in that:

The facility was substantially completed and placed into operation on July 28, 1992. The application for certification was found to be complete on August 10, 1993, within two years of the completion date.

4. Evaluation of Application

- a. The facility is eligible because the sole purpose of the facility is to reduce a substantial quantity of water pollution. This reduction is accomplished by the elimination of industrial waste as defined in ORS 468.700. In addition, the facility is not integral to the operation of the applicant's business.

Prior to the construction of the paved area with the oil/water separator, the applicant stored drop boxes and hoppers in two areas on the site. One storage location was a paved alley that discharged runoff into N.W. Nicolai Street. Drop boxes and hoppers were stored in the alley beside the applicant's processing building. Since the storage containers were not covered, storm water contacted the scrap metals and left the hoppers as wastewater contaminated with oil, grease, metal shavings, solvents, and other pollutants. The contaminated runoff flowed from the alley into N.W. Nicolai and entered the City's storm sewer system that ultimately discharged into the Willamette River. The runoff received no treatment prior to discharging into the Willamette.

The applicant also stored drop boxes and hoppers on the current site of the pollution control facility after an old house was demolished, retaining walls were constructed, and fill and gravel were installed. Oil

from delivery trucks or drop boxes drained directly into the soil on the site. As with the other storage area located in the alley, storm water that contacted the open drop boxes became contaminated. The runoff percolated through the gravel and fill material directly into the surrounding soil and groundwater.

With construction of the pollution control facility, the applicant can store the drop boxes and hoppers in a paved area where contaminated storm water runoff from the storage bins will be treated through the oil/water separator prior to discharge into the City's combined sewer system. In addition, the applicant has reduced the amount of oil and oily storm water runoff that enters the storm sewer located in N.W. Nicolai Street by shifting the full hoppers containing scrap metals to the paved area. The applicant has an NPDES Storm Water Permit issued by the Department that regulates the discharge of the runoff from the site, and monitoring of the runoff is required at the discharge point into the N.W. Nicolai storm sewer system. The applicant has documented a decrease in the amount of oil and grease discharged in the runoff at this sampling point with the relocation of the full storage boxes to the paved location.

b. Eligible Cost Findings

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

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

The facility does not recover or convert waste products into a salable or usable commodity. The contaminated runoff and spills or leaks of oil and grease and other contaminants are treated through the oil/water separator and then discharged into the City's combined sewer system for ultimate disposal.

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

The applicant indicates in the application that there is no income or savings from the facility, so there is no return on investment.

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

The applicant considered other alternatives but determined that none of them could achieve the same overall objectives. For example, one alternative for the N.W. Nicolai Street storage location included the installation of a collection trough, an oil/water separator, and connection to the City's sanitary sewer. This alternative was expected to cost approximately \$30,000, and it would not solve any of the problems associated with the second storage area on the rear lot of the site. The applicant also considered installing the pollution control facility without the installation of the oil/water separator. This would have saved the applicant approximately \$10,000, but would have allowed oils and grease and oily storm water runoff to enter the City's combined sewer system. Since the City of Portland has notified the applicant that the Bureau of Environmental Services is currently developing policies regarding the discharges of storm water runoff into the combined sewer system, the applicant included installation of the oil/water separator with the paving in order to comply with expected requirements. It is the Department's determination that the installed facility is an acceptable method for achieving the pollution control objective.

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

There are no savings or increase in costs from the installation of the facility.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air, water or noise

pollution or solid or hazardous waste or to recycling or properly disposing of used oil.

The applicant submitted receipts totalling \$61,416 for all of the improvements that were made to the back lot of the site. The costs were broken down into two stages of work. Under Stage 1, the work included installing retaining walls, fill material, gravel, and grading of the site. The cost of the Stage 1 work was \$26,250. No portion of the Stage 1 cost was claimed in the tax credit application since the applicant felt that the work did not relate to pollution control. Under Stage 2, the work included installation of a driveway and sidewalk, a fence, paving, an oil/water separator, excavation as needed for the installations, and appropriate permits. The applicant reviewed the total costs for Stage 2, \$35,166, and reduced this amount by 28% to obtain the amount claimed in the tax credit application, \$25,311. The applicant did not allocate any of the costs for installation of the sidewalk, driveway, and the fence as applicable to pollution control. The costs for paving the back lot, installing the oil/water separator, and the excavation needed for the separator's installation were considered allocable for pollution control. Based upon the applicant's justification in reducing the costs of the Stage 2 work, it is agreed that the allocable portion of the claimed facility cost is \$25,311, or 72% of the total cost.

5. Summation

- a. The facility was constructed in accordance with all the regulatory deadlines.
- b. The facility is eligible for tax credit certification in that the sole purpose of the facility is to reduce a substantial quantity of water pollution. The facility accomplishes this purpose by the elimination of industrial waste as defined in ORS 468.700.
- c. The facility complies with DEQ statutes and rules.

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

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$25,311 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-4115.

Pamela Fink:plf  
Tax Credit Application No. 4115  
(503) 229-6385, extension 248  
August 10, 1993

State of Oregon  
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Boise Cascade Corporation  
Timber & Wood Products Division  
P.O. Box 50  
Boise, ID 83728

The applicant owns and operates a particleboard manufacturing plant in La Grande, Oregon.

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

2. Description of Facility

The facility has eliminated fugitive emission from truck loading of hogged material. The facility consists of a three unit surge bin and support equipment, which feeds into the plants existing pneumatic conveyance system.

Claimed Facility Cost: \$119,782.00

A distinct portion of the facility makes an insignificant contribution to the principal purpose of pollution control. The applicant claimed \$8,400.00 for a structure installed to contain fugitive emissions by enclosing the truck loading area. High dust levels within the structure had a negative impact on working conditions and required the removal of the structure. The applicant then installed the surge bin system to eliminate the fugitive emission problem. The costs for the structure is ineligible because it does not currently function to control pollution.

Eligible Facility Cost: \$111,382.00

Accountant's Certification was provided.

The applicant indicated the useful life of the facility is 15 years.

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 July 12, 1992 and the facility was placed into operation on July 12, 1992. The application for final certification was received by the Department on August 3, 1993. The application was found to be complete on September 23, 1993, within two years of substantial completion of the facility.

4. Evaluation of Application

a. Rationale For Eligibility

The facility is eligible because the principal purpose of the facility is to comply with a requirement imposed by the Department to control air pollution. This is in accordance with OAR Chapter 340, Division 21, Rule 15. The air contaminant Discharge Permit for this source, 31-0002, Conditions 2.c. and 4 requires the permittee to control fugitive emissions of particulate. The emission reduction is accomplished by the elimination of air contaminants as defined in ORS 468A.005.

The claimed facility consists of a 3 unit surge bin, a Carothers Feeder, a 721-4500 Series Sutorbilt Blower, a 12 inch diameter cross transfer screw, fire suppression equipment, and support equipment. The claimed facility replaces a hopper which collected hogged reclaimed particleboard. Periodic loading of the hogged material from the hopper to trucks resulted in fugitive emissions with opacity in excess of 20%, for more than three minutes in one hour. The applicant received a Notice of Non-Compliance for these excess emissions on September 3, 1991. The applicant installed the facility to prevent future excess emissions from truck loading the hogged material.

Reclaimed particle board panels are hogged and stored in the surge bins. The surge bins feed the hogged material is into the high pressure relay system. The relay system delivers the hogged material to the applicants pre-existing pneumatic conveyance system. The conveyance system delivers the hogged material to storage buildings through cyclones which are controlled by baghouses. Installation of the surge bins and high pressure relay system has eliminated the excess emissions

caused by truck loading.

b. Eligible Cost Findings

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

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

The facility does not recover or convert waste products into a salable or usable commodity. The material recovered in the surge bins was recovered prior to the installation of the facility.

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

The applicant indicates in the application there is no income or savings from the facility, so there is no return on the investment.

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

The applicant attempted to utilize a less expensive option for eliminating fugitive particulate emissions. The applicant originally installed an enclosure around the truck dump area. High wood dust levels within the enclosure caused worker health and safety concerns. The applicant removed the enclosure and installed the surge bins to address the fugitive emission problem.

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

There are no savings from the facility. The cost of maintaining and operating the facility is \$5,000.00 annually.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of

the facility properly allocable to the prevention, control or reduction of air pollution.

The eligible facility costs have been determined to be \$111,382.00 after adjusting for a distinct portion of the facility which is not eligible for tax credit certification. This is discussed in section 2 of this report.

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 deadlines.
- b. The facility is eligible for final tax credit certification in that the principal purpose of the facility is to comply with a requirement imposed by Department to prevent air pollution.
- c. The facility complies with DEQ statutes and rules, and permit conditions.
- d. The portion of the facility cost that is properly allocable to pollution control is 100%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$111,382.00 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-4127.

BKF:AQ

September 23, 1993

Application No. T-4132

STATE OF OREGON  
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Alton L. Jager  
Chestnut Place Apartments  
12350 S. E. 31st Place  
Milwaukie, OR 97222

The applicant owns and operates an apartment complex. Solid waste disposal and recycling is included in the rent paid by tenants. Application was made for tax credit for a solid waste pollution control facility.

2. Description of Facility

The facility consists of seven on-site recycling depots for use by tenants. The depots provide the tenants with the opportunity to recycle a full range of materials. Each depot consists of a concrete slab, eight obscuring fencing, five 90 gallon recyclable collection containers and one large cardboard collection dumpster. Prior to construction of the recycling depots only solid waste disposal service was available for tenants

Claimed facility cost: \$ 5,803

Copies of invoices were provided.

3. Procedural Requirements

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

The facility met all statutory deadlines in that:

- a. Installation of the facility was started on May 20, 1993
- b. The facility was placed into operation on July 1, 1993
- c. The application for tax credit was submitted to the Department on August 18, 1993.
- d. The application was found to be technically complete and was filed on August 24, 1993 within two years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the sole purpose of the claimed facility is to reduce a substantial quantity of solid waste through recycling.

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.

This factor is applicable because the material collected at the depots is subsequently recovered and manufactured into a new product. If the depots were not available tenants would not have the opportunity to recycle and recyclable material would be disposed of as solid waste.

The percent allocable by using this factor would be 100%.

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

There is no direct income from the claimed facility, recovered material is not sold to the collection company. There is an indirect income in the form of reduced solid waste disposal costs. In the first years of operation, increased collection costs will be greater than savings in collection costs. Eventually, with full tenant participation, savings may exceed collection costs. The average annual cash flow for the first five years of operation is negative. As a result, using Table 1, OAR 340-16-030, the return on investment for the claimed facility is 0 and the percent allocable is 100%.

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

The applicant has not identified and is not aware of alternative methods for achieving the same material recovery objective. It is the Department's determination that the proposed facility is an acceptable method of achieving the material recovery objective.

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

There are no savings, other than those considered in (2) above, associated with the purchase or use of this facility.

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

There are no other factors to consider in establishing the actual cost of the facility properly allocable to material recovery from solid waste.

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

5. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.
- b. The facility is eligible for tax credit certification in that the sole purpose of the facility is to reduce a substantial quantity of solid waste through recycling.
- c. The facility complies with DEQ statutes and permit conditions.
- d. The portion of the facility cost that is properly allocable to pollution control is 100%.

6. Director's Recommendation

Based upon the findings, it is recommended that a Pollution Control Facility certificate bearing the cost of \$5,803 with 100% allocable to pollution control be issued for the facility claimed in Tax Credit Application No. T-4132.

State of Oregon  
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Mel's B.P. Inc.  
14801 SE Webster Rd.  
Milwaukie, OR 97222

The applicant owns and operates an automobile service and repair establishment in Milwaukie, Oregon.

Application was made for tax credit for an air pollution control facility which is owned by the applicant.

2. Description of Facility

The facility is a machine which removes and cleans auto air conditioner 134A coolant. The machine is self contained and includes pumps, tubing, valves and filters which rid the spent coolant of oil, excess air, water, acids and contaminant particles.

The applicant has identified the useful life of the equipment to be three years.

Claimed Facility Cost: \$3,995.00  
(Costs have been documented)

3. Procedural Requirements

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

Installation of the facility was substantially completed on August 12, 1993. The facility was placed into operation on August 14, 1993. The application for final certification was submitted to the Department on August 17, 1993. The application was found to be complete on August 20, 1993, within two years of substantial completion of the facility.

4. Evaluation of Application

- a. The facility is eligible because the sole purpose of the facility is to reduce air pollution. This reduction is accomplished by capturing and/or recycling air contaminants, as defined in ORS 468.275.

Eligible equipment must be certified by Underwriters Laboratory (UL) as meeting the requirements and specifications of UL1963 and the Society of Automotive Engineers (SAE) standards, J2210, or other requirements and specifications determined by the Department as being equivalent. The facility meets these requirements.

b. Eligible Cost Findings

In determining the percent of the 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 recovery and recycling machine serves two purposes. It prevents the release of spent auto A/C coolant to the environment, thereby meeting Department regulations requiring capture of this air contaminant. Second, it provides a means to recover and clean waste coolant for reuse as an auto A/C coolant.

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

The percent return on investment from facility use was calculated using coolant cost and retrieval rate data from the applicant and generic cost of facility operations estimated by the Department.

Specifically, the applicant estimated the cost to applicant of virgin coolant at \$10.00/pound. The applicant estimated an annual coolant recovery rate of 60 pounds.

In estimating the operating costs for use of the recovery and recycling machine, the Department developed a standardized methodology which considers the following factors:

- o Electricity consumption of machine
- o Additional labor to operate machine
- o Machine maintenance costs
- o Depreciation of machine



Based on these considerations, the applicant estimated the return on investment to be less than zero, in that machine operating costs exceeded income from the use of the machine.

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

The applicant has identified no alternatives.

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

There are savings from the facility to recover and reuse coolant. The applicant may use the recycled coolant in customer vehicles. In this case the savings are tied to the displaced cost of virgin coolant. Alternately, the applicant could sell the coolant to a second shop where the coolant is used. In this case the savings to the applicant are tied to the sales price of recycled coolant.

However, for this applicant increases in business operations and maintenance costs exceeded facility savings. These cost estimates are discussed in 2) above.

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

A distinct portion of this automobile air conditioning coolant recovery and recycling equipment makes an insignificant contribution to the principal purpose of the claimed facility. This coolant recovery equipment has the capability to return (recharge) coolant to automobile air conditioning systems. Recharge capabilities in coolant recovery and recycling equipment is not required by state or federal law. The additional expense incurred in the purchase of equipment with recharge capabilities is not allocable to pollution control. The Department estimates the

additional expense incurred is \$700.00.

The actual cost of the facility properly allocable to pollution control as determined by using these factors is 82%.

5. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.
- b. The facility is eligible for tax credit certification in that the sole purpose of the facility is to to reduce air pollution.
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 82%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$3,995.00 with 82% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4133.

BKF  
(503) 229-5365  
September 24, 1993

State of Oregon  
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Towler Refrigeration  
7241 SW Highway 97  
Culver, OR 97734

The applicant owns and operates a sales and repair establishment of air conditioning and refrigeration equipment in Madras, Oregon.

Application was made for tax credit for an air pollution control facility which is owned by the applicant.

2. Description of Facility

The facility is a machine which removes and cleans air conditioner or commercial refrigerant coolant. The machine is self contained and includes pumps, tubing, valves and filters which rid the spent coolant of oil, excess air, water, acids and contaminant particles.

The applicant has identified the useful life of the equipment to be three years.

Claimed Facility Cost: \$3044.37  
(Costs have been documented)

3. Procedural Requirements

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

Installation of the facility was substantially completed on June 19, 1992. The facility was placed into operation on June 26, 1992. The application for final certification was submitted to the Department on August 20, 1993. The application was found to be complete on August 24, 1993, within two years of substantial completion of the facility.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with a requirement imposed by the Environmental Protection Agency to reduce air pollution. This reduction is accomplished by capturing and/or recycling air contaminants, as defined in ORS 468.275. The requirement is to comply with Section 608 of the

1990 Clean Air Act Amendments. Section 608 prohibits the venting of a Class I or Class II ozone depleting substance in the course of maintaining, servicing, repairing, or disposing of an appliance or industrial process refrigeration.

The EPA has specified standards equipment manufactured before January 1, 1993 would have to meet to be grandfathered under the EPA's planned regulations. The standards require the equipment be capable of achieving a vacuum able to sustain either four or twenty-five inches of Mercury. High pressure equipment will need to sustain a four inch vacuum. Low pressure equipment will need to sustain a twenty-five inch vacuum. The claimed facility meets these standards.

b. Eligible Cost Findings

In determining the percent of the 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 recovery and recycling machine serves two purposes. It prevents the release of spent refrigerant to the environment, thereby meeting EPA regulations requiring capture of this air contaminant. Second, it provides a means to recover and clean waste coolant for reuse.

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

The percent return on investment from facility use was calculated using coolant cost and retrieval rate data from the applicant and generic cost of facility operations estimated by the Department.

Specifically, the applicant estimated the cost to applicant of coolant at \$2.23/pound. The applicant estimated an annual coolant recovery rate of 160 pounds.

In estimating the operating costs for use of the recovery and recycling machine, the Department developed a standardized methodology which considers the following factors:

- o Electricity consumption of machine
- o Additional labor to operate machine
- o Machine maintenance costs
- o Depreciation of machine

Based on these considerations, the applicant estimated the return on investment to be less than zero, in that machine operating costs exceeded income from the use of the machine.

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

The applicant has identified no alternatives.

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

There are savings from the facility to recover and/or reuse coolant. The applicant may use the recycled coolant in customer equipment. In this case the savings are tied to the displaced cost of virgin coolant. Alternately, the applicant could sell the coolant to an industrial coolant purification center. In this case the savings to the applicant are tied to the sales price of recovered coolant.

However, for this applicant increases in business operations and maintenance costs exceeded facility savings. These cost estimates are discussed in 2) above.

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

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

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

5. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.
- b. The facility is eligible for tax credit certification in that the principal purpose of the facility is to comply with a requirement imposed by the EPA to reduce air pollution.
- c. The facility complies with Department standards 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 \$3044.00 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4134.

BKF:AQ

September 24, 1993

STATE OF OREGON  
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

---

1. Applicant

Oregon Waste Systems, Inc  
Columbia Ridge Landfill and Recycling Center  
18177 Cedar Springs Lane  
Arlington, OR 97812

The applicant owns and operates a solid waste landfill in Arlington, Oregon. Application was made for tax credit for a solid waste pollution control facility.

2. Description of Facility

The facility is the module four cell liner and leachate collection system consisting of: a one foot layer of protective soil; an 8 oz. geotextile layer; a one foot layer of granular drainage material including piping; a 16 oz. geotextile cushion; a 60 mil HPDE geomembrane; a two foot thick compacted soil liner; and a secondary collection/leak detection system with the following basic elements, an 8 oz. geotextile layer (filter), a granular drainage layer including piping, a 60 mil HDPE geomembrane, and a compacted subgrade.

Claimed facility cost : \$3,286,711 consisting of:

Synthetic liner	\$ 1,163,923
Clay liner and leachate collection system	1,862,222
Liner QA/QC	260,565
Total	<u>3,286,711</u>
Less: Non allowable costs (none)	
Total eligible	<u>3,286,711</u>

An applicants Accountant's Certification was provided. A cost allocation review of this application by an independent contractor has identified no nonallowable costs claimed by the applicant.

3. Procedural Requirements

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

The facility met statutory deadlines in that construction of the facility was begun in July 9, 1992, and substantially completed by May 19, 1993 and placed into operation on July 1, 1993. The application was submitted to the Department on December 28, 1992 prior to the effective date of the new rules governing facilities that are integral to the operation of a business. The application was found to be complete on August 3, 1993 within two years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with a requirement imposed by the Department (DEQ) and the federal Environmental Protection Agency (EPA), to prevent ground water pollution. The requirement is to comply with OAR 340-61, 40 CFR 258.40, and DEQ Solid Waste Permit number 391.

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.

None, the facility does not recover or convert waste products, (leachate) into a salable or usable commodity.

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

There is no return on investment for this facility because there is no income derived from the monitoring wells, liner, or leachate collection system.

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

There are no alternatives, the liner and leachate collection system are specified requirements of DEQ Solid Waste Permit number 391.

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

There are no savings realized from the installation of the facility.

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

a) The Environmental Quality Commission has directed that tax credit applications at or above \$250,000 go through an additional accounting review to determine if costs were properly allocated. This review was performed under contract by the accounting firm of Coopers and Lybrand. The cost allocation review of this application has identified no nonallowable costs and no issues to be resolved.

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

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



5. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.
- b. The facility is eligible for tax credit certification in that the principal purpose of the facility is to comply with a requirement imposed by the Department and federal Environmental Protection Agency to prevent ground water pollution.
- c. The facility complies with DEQ statutes and permit conditions.
- d. An independent accounting firm under contract with the Department has concluded that no further procedures need be performed on T-3948, other than the adjustment for nonallowable costs in this report.
- e.  The portion of the facility cost that is properly allocable to  pollution control is 100%.

6. Director's Recommendation

Based upon the findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$3,286,711 with 100% allocable to pollution control be issued for the facility claimed in Tax Credit Application No. T 3948.

WRB:wrb  
wp51\tax\tc3948rr.sta  
(503)229-5934  
September 21, 1993

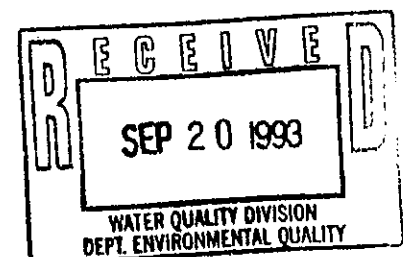
Oregon Department of Environmental Quality  
811 S.W. Sixth Ave.  
Portland, Oregon 97204

At your request, we have performed certain agreed upon procedures with respect to Oregon Waste Systems, Inc.'s (the Company) Pollution Control Tax Credit Application No. 3948, regarding the Columbia Ridge Landfill and Recycling Center in Gilliam County, Oregon (the Facility). The aggregate claimed Facility costs on the Application was \$3,286,711. The following agreed upon procedures and related findings are as follows:

1. We read the Application, the Oregon Revised Statutes on Pollution Control Facilities Tax Credits - Sections 468.150 - 468.190 (the Statutes) and the Oregon Administrative Rules on Pollution Control Tax Credits - Sections 340-16-005 through 340-16-050 (OAR's).
2. We discussed the Application and Statutes with Charles Bianchi and Bill Bree of the Oregon Department of Environmental Quality (DEQ).
3. We discussed the Application and Statutes with Will Spears, Controller and Doug Coener, Division President, of the Company.
4. We inquired as to whether there were any direct or indirect Company costs charged to the Facility costs claimed in the Application. We were informed that no such costs were charged.

Based on our review of supporting documentation discussed in item no. 5 below, there does not appear to be any direct or indirect Company costs claimed in the Application.

5. We reviewed supporting documentation for 91% of the amount claimed on the Application through review of vendor invoices. All costs which we reviewed supporting the Application appeared to be from third party vendors.
6. We discussed with Will Spears, Controller for the Company, the extent to which excavation costs were excluded from the Application. This was accomplished by reviewing specific contractor invoices (see item no. 5) with Mr. Spears. We determined that the Company has properly excluded from the Application excavation and other costs related to the construction of the Facility.



Because the above procedures do not constitute an audit conducted in accordance with generally accepted auditing standards, we do not express an opinion on any of the items referred to above. In connection with the procedures referred to above, no matters came to our attention that caused us to believe that the Application should be adjusted. Had we performed additional procedures, or had we conducted an audit of the financial statements of the Company in accordance with generally accepted auditing standards, other matters might have come to our attention that would have been reported to you. This report relates only to the items specified above and does not extend to any financial statements of the Company taken as a whole.

This report is solely for the State of Oregon Department of Environmental Quality in the evaluating the Company's Pollution Control Tax Credit Application and should not be used for any other purpose.

*Cogens & Lybrand*

Portland, Oregon  
September 2, 1993

STATE OF OREGON  
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

---

1. Applicant

Boise Cascade Corporation  
Paper Group  
One Jefferson Square  
Bosie, ID 83728

The applicant owns and operates a paper mill in St. Helens, Oregon. Facilities associated with the mill include a clarifier solids industrial landfill. Application was made for tax credit for a solid waste pollution control facility.

2. Description of Facility

The facility is the top landfill liner, surface drainage, and gas collection systems for the completed portion, phase one, of a clarifier solids industrial landfill. The top liner consists of layers of top soil, select sand, non-woven geotextile, 60 mil HDPE, geonet, non-woven geotextile composite, 3/4" minus crushed gravel, and non-woven geotextile on top of waste material. The surface drainage system includes grading and surface water collection and diversion facilities. The gas collection system is a passive collection system consisting of 6" perforated HDPE collection pipes, concrete pad sealed into the liner system, and 12" stainless steel risers with spinner vents. These systems were required by Solid Waste Permit #1127. Plans and specification were approved by the Department on August 28, 1991 and final site closure determination was made on October 29, 1992.

Claimed facility cost : \$797,006 consisting of:

Top liner system	\$ 637,605
Surface drainage system	119,551
Gas collection system	39,850
Total	<u>797,006</u>
Less: Non allowable costs (none)	
Total eligible	<u>797,006</u>

An applicants Accountant's Certification was provided. A cost allocation review of this application by an independent contractor has identified no nonallowable costs claimed by the applicant.

3. Procedural Requirements

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

The facility met statutory deadlines in that construction of the facility was begun in August 1, 1991, and substantially completed by November 12, 1991 and placed into operation on November 12, 1991. The application was submitted to the Department on January 19, 1993 prior to the effective date of the new rules governing facilities that are integral to the operation of a business. The application was found to be complete on September 21, 1993 within two years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with a requirement imposed by the Department (DEQ) and the federal Environmental Protection Agency (EPA), to prevent ground water pollution. The requirement is to comply with OAR 340-61, 40 CFR 258.40, and DEQ Solid Waste Permit #1127.

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.

None, the facility does not recover or convert waste products, (leachate) into a salable or usable commodity.

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

There is an estimated \$5,595 annual savings in leachate disposal cost as a result of the facility. The applicant claims there is no other income derived from the top liner, surface water diversion, or gas venting systems. As a result, using the Table 1, OAR 340-16-030, the return on investment is 0% and the percent allocable is 100%.

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

There are no alternatives, the liner, surface water diversion, and gas venting systems are specified requirements of DEQ Solid Waste Permit #1127.

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

There are no other savings realized from the installation of the facility.

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

a) The Environmental Quality Commission has directed that tax credit applications at or above \$250,000 go through an additional accounting review to determine if costs were properly allocated. This review was preformed under contract by the accounting firm of Coopers and Lybrand. The cost allocation review of this application has identified no nonallowable costs and no issues to be resolved.

b) This application was received by the Department prior to the amendments to OAR 340-16-030 relating to pollution control facilities which are an integral part of the operation of the applicant's business. This application was reviewed under the rules in effect at the time of submittal.

- c) There are no other factors to be considered in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

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

5. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.
- b. The facility is eligible for tax credit certification in that the principal purpose of the facility is to comply with a requirement imposed by the Department and federal Environmental Protection Agency to prevent ground water pollution.
- c. The facility complies with DEQ statutes and permit conditions.
- d. An independent accounting firm under contract with the Department has concluded that no further procedures be preformed on T-3963, other than the adjustment for nonallowable costs in this report.
- e. The portion of the facility cost that is properly allocable to pollution control is 100%.

6. Director's Recommendation

Based upon the findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$797,006 with 100% allocable to pollution control be issued for the facility claimed in Tax Credit Application No. T 3963.

WRB:wrb  
wp51\tax\tc3963rr.sta  
(503)229-5934  
September 21, 1993

Oregon Department of Environmental Quality  
811 S.W. Sixth Ave.  
Portland, Oregon 97204

At your request, we have performed certain agreed upon procedures with respect to Boise Cascade Corporation's (the Company) Pollution Control Tax Credit Application No. 3963, regarding the Boise Cascade Clarifier Solids Landfill in Columbia County, Oregon (the Facility). The aggregate claimed Facility costs on the Application was \$797,006. The following agreed upon procedures and related findings are as follows:

1. We read the Application, the Oregon Revised Statutes on Pollution Control Facilities Tax Credits - Sections 468.150 - 468.190 (the Statutes) and the Oregon Administrative Rules on Pollution Control Tax Credits - Sections 340-16-005 through 340-16-050 (OAR's).
2. We discussed the Application and Statutes with Charles Bianchi and Bill Bree of the Oregon Department of Environmental Quality (DEQ).
3. We discussed the Application and Statutes with Richard Garber, Environmental Engineer, of the Company.
4. We inquired as to whether there were any direct or indirect Company costs charged to the Facility costs claimed in the Application. We were informed that no such costs were charged.

Based on our review of supporting documentation discussed in item no. 5 below, there does not appear to be any direct or indirect Company costs claimed in the Application.

5. We reviewed supporting documentation for 99% of the amount claimed on the Application through review of vendor invoices. All costs which we reviewed supporting the Application appeared to be from third party vendors.
6. We discussed with Richard Garber, Environmental Engineer for the Company, the extent to which excavation costs were excluded from the Application. This was accomplished by reviewing specific contractor invoices (see item no. 5) with Mr. Garber. We determined that the Company has properly excluded from the Application excavation and other related costs which pertain to the construction of the Facility.

Because the above procedures do not constitute an audit conducted in accordance with generally accepted auditing standards, we do not express an opinion on any of the items referred to above. In connection with the procedures referred to above, no matters came to our attention that caused us to believe that the Application should be adjusted. Had we performed additional procedures, or had we conducted an audit of the financial statements of the Company in accordance with generally accepted auditing standards, other matters might have come to our attention that would have been reported to you. This report relates only to the items specified above and does not extend to any financial statements of the Company taken as a whole.

This report is solely for the State of Oregon Department of Environmental Quality in the evaluating the Company's Pollution Control Tax Credit Application and should not be used for any other purpose.

*Coopers & Lybrand*

Portland, Oregon  
August 10, 1993



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

---

1. Applicant

Portland General Electric Company  
121 S.W. Salmon Street, 1WTC-10  
Portland, Oregon 97204

The applicant owns and operates an electric power substation located at 1900 S.E. Water Avenue, in Portland, Oregon.

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

2. Description of Facility

The applicant owns and operates an electrical power substation equipped with oil-filled transformers with a total capacity of 8,000 gallons. The claimed facility consists of an internal storm drainage and oil spill collection and containment system for the substation. The site was regraded such that all storm water runoff or spilled oil must flow through a 10,000 gallon oil/water separator which provides for containment in the event of an oil spill from the electrical equipment. The containment system is equipped with oil-stop valves which will prevent the release of oil even during storm events. The facility was inspected on April 2, 1993.

Claimed Facility Cost: \$264,490 (adjusted)  
(Accountant's Certification was provided).

3. Procedural Requirements

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

The facility met statutory deadline in that installation of the facility was substantially completed on April 1, 1993, and the application for certification was found to be complete on August 30, 1993, within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the sole purpose of the facility is to prevent a substantial quantity of water pollution. This prevention is accomplished by installation of facilities which will be used to prevent spills or unauthorized releases.

b. Eligible Cost Findings

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

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

The facility does not recover or convert waste products into

a salable or usable commodity.

The percent allocable determined by using this factor would be 100%.

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

The facility produces no income, therefore the percent annual return on investment is zero.

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

The applicant considered two other alternatives:

Transformer oil containment pits, at an estimated cost of \$200,000 to \$300,000. This alternative was rejected due to costs and operational maintenance expenses, and because it would require taking the transformer station out of service while the containment pits were being constructed.

Sand filter system, at an estimated cost of \$80,000 to \$130,000. This alternative was rejected due to the risk of fire from spilled oil accumulation on the ground surface and high environmental risk, and because it would not meet the code requirements of the City of Portland.

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

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

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

- a) The Environmental Quality Commission has directed that tax credit applications at or above \$250,000 go through an additional departmental accounting review to determine if costs were properly allocated. This review was performed under contract with the Department by the accounting firm of Symonds, Evans and Larson.

The cost allocation review of this application identified non-allowable costs totalling \$49,953, for construction activities not directly related to pollution control. The claimed facility cost has been reduced by this amount, as follows:

Claimed facility cost (original)	\$314,443
<u>Non-allowable costs</u>	<u>&lt;49,953&gt;</u>
Claimed facility cost (adjusted)	264,490

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

5. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.
- b. The facility is eligible for tax credit certification in that the sole purpose of the facility is to prevent a substantial quantity of water pollution. This prevention is accomplished by installation of facilities which will be used to prevent spills or unauthorized releases.
- c. The facility complies with DEQ statutes and rules.
- d. An independent accounting firm under contract with the Department has concluded that no further review procedures be performed on T-4018 (see attached review report).
- e. 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 \$264,490 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-4018.

(George F. Davis):(GFD)  
(T-4018)  
(503) (229-6385 x 242)  
(August 31, 1993)

**SYMONDS, EVANS & LARSON**  
CERTIFIED PUBLIC ACCOUNTANTS

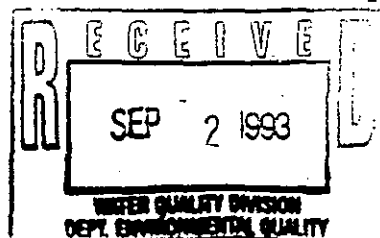
Environmental Quality Commission  
811 S.W. Sixth Avenue  
Portland, Oregon 97204

At your request, we have performed certain agreed-upon procedures with respect to Portland General Electric Company's (the Company's) Pollution Control Tax Credit Application No. 4018 (the Application) filed with the State of Oregon, Department of Environmental Quality (DEQ) for the Water Pollution Control Facility in Portland, Oregon (the Facility). The Application has a claimed Facility cost of \$314,443. Our procedures, findings and conclusion are as follows:

Procedures:

1. We read the Application, the Oregon Revised Statutes on Pollution Control Facilities Tax Credits – Sections 468.150 through 468.190 (the Statutes), and the Oregon Administrative Rules on Pollution Control Tax Credits – Sections 340-16-005 through 340-16-050 (OAR's).
2. We reviewed certain documents which support the Application.
3. We discussed the Application, the Statutes and OAR's with certain DEQ personnel, including Charles Bianchi and George Davis.
4. We discussed certain components of the Application with numerous Company personnel including the following:
  - Edward Miska
  - Bill Lawson
  - Chuck Mangis
  - James Crouser
  - Kevin Poirer
  - Gary Young
5. We toured the Facility with Mr. Miska and Mr. Lawson.
6. We requested that Company personnel confirm the following:
  - a) There were no related parties or affiliates of the Company which had billings (other than internal labor) which were included in the Application.

9600 S.W. Oak Street, Suite 380  
Portland, Oregon 97223



Phone: (503) 244-7350  
Fax: (503) 244-7331

# SYMONDS, EVANS & LARSON

CERTIFIED PUBLIC ACCOUNTANTS

- b) In accordance with ORS 468.155(2)(e), the Facility is not a "replacement or reconstruction of all or a part of any facility for which a pollution control facility certificate has previously been issued..."
- c) All costs included in the Application related directly to the construction of the Facility and were not related to maintenance and repairs.
- d) The remaining salvage value (net of any removal and selling costs) of prior equipment that is no longer being used in the Facility is estimated to be less than \$1,000.
- e) All amounts included in the Application relate directly to pollution control, and none of the amounts included in the Application relate to costs that would have been incurred by the Company to upgrade/maintain the Facility in the normal course of business.
- f) The 63.4% rate used to calculate the amount of the Company's construction overhead allocated to the Facility (\$72,844) is an accurate estimate of the actual amount of the Company's construction overhead that relates to the Facility. Such amounts would have been required and directly charged to the Facility had detailed records by project been maintained.
- g) The Application does not include any costs related to the environmental remediation of the Facility.

## Findings:

1. through 5.

No matters came to our attention that caused us to believe that the Application should be adjusted, except for \$49,953 of non-allowable costs related to the following:

• Fencing costs - Willamette Fence Co., Inc.:		
Invoice No. 279	\$ 12,188	
Invoice No. 208	4,700	
Reference No. 49837	<u>462</u>	
	17,350	\$ 17,350
• Labor and overhead costs to install and ground the fence:		
Work order No. 6547		4,723
Overhead on labor	45.0%	
Construction overhead	<u>63.4%</u>	
Estimated overhead on work order No. 6547	108.4%	5,120

**SYMONDS, EVANS & LARSON**  
CERTIFIED PUBLIC ACCOUNTANTS

• Lone Star Northwest delivery to King City Substation which was incorrectly charged to Stephens Substation	1,691
• Costs from Utility Vault Co., Inc. to stabilize the bank at the fence line, which were not primarily for the purpose of pollution control	11,339
• Loy Clark Pipeline Co. costs related to Rivergate Substation which were incorrectly charged to Stephens Substation	1,326
• Engineering costs from North American Contract Employee Services related to fencing - Invoice No. 5001-08-91	5,143
• Construction overhead (63.4%) related to North American Contract Employee Services - Invoice No. 5001-08-91	<u>3,261</u>
Total non-allowable costs	<u>\$ 49,953</u>

As a result, the allowable costs for the Application should be reduced to \$264,490.

6. Company personnel confirmed in writing that such assertions were true and correct.

Conclusion:

Because the above procedures do not constitute an audit conducted in accordance with generally accepted auditing standards, we do not express an opinion on any of the items referred to above. In connection with the procedures referred to above, no matters came to our attention that caused us to believe that the specified items should be adjusted, except as noted above. Had we performed additional procedures or had we conducted an audit of the financial statements of the Company in accordance with generally accepted auditing standards, other matters might have come to our attention that would have been reported to you. This report relates only to the items specified above and does not extend to any financial statements of the Company, taken as a whole.

This report is solely for the use of the State of Oregon Environmental Quality Commission and Department of Environmental Quality in evaluating the Company's Pollution Control Tax Credit Application with respect to its Water Pollution Control Facility in Portland, Oregon and should not be used for any other purpose.

*Symonds, Evans & Larson*

August 24, 1993

## DIVISION 28

### Definitions

340-28-110 As used in this Division and unless otherwise required by context:

(76) "Regulated air pollutant" or "Regulated Pollutant":

(a) as used in OAR 340-28-100 through 340-28-2320 means:

- (A) Nitrogen oxides or any VOCs;
- (B) Any pollutant for which a national ambient air quality standard has been promulgated;
- (C) Any pollutant that is subject to any standard promulgated under section 111 of the Act;
- (D) Any Class I or II substance subject to a standard promulgated under or established by Title VI of the Act; or
- (E) Any pollutant listed under OAR 340-32-130 or OAR 340-32-5400.

(b) as used in OAR 340-28-2400 through 340-28-2550 means PM<sub>10</sub>, Sulfur Dioxide (SO<sub>2</sub>), Oxides of Nitrogen (NO<sub>x</sub>), Lead (Pb), VOC, and Carbon Monoxide (CO); and any other pollutant subject to a New Source Performance Standard (NSPS) such as Total Reduced Sulfur (TRS) from kraft pulp mills and Fluoride (F) from aluminum mills. (Renumbered from OAR 340-20-520(22))

(c) as used in OAR 340-28-2560 through 340-28-2720 means any regulated air pollutant as defined in 340-28-110(81) except the following:

- (A) Carbon monoxide;
- (B) Any pollutant that is a regulated pollutant solely because it is a Class I or Class II substance subject to a standard promulgated under or established by Title VI of the Federal Clean Air Act; or
- (C) Any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under section 112(r) of the Federal Clean Air Act.

Actual Emissions

340-28-2650 An owner or operator electing to pay on actual emissions shall obtain emission data and determine emissions using one of the following methods:

- (1) Continuous monitoring systems used in accordance with OAR 340-28-2660,
- (2) Verified emission factors developed for that particular source in accordance with OAR 340-28-2700 for:
  - (a) Each assessable emission, or
  - (b) A combination of assessable emissions if there are multiple sources venting to the atmosphere through one common emission point (eg. stack). The owner or operator shall have a verified emission factor plan approved by the Department prior to conducting the source testing in accordance with OAR 340-28-2700,
- (3) Material balances determined in accordance with OAR 340-28-2670, OAR 340-28-2680, or OAR 340-28-2690, or
- (4) Verified emission factors for source categories developed in accordance with OAR 340-28-2700(11).
- (5) For specific assessable emissions of regulated air pollutants listed under OAR 340-32-130 and not subject by permit to a Plant Site Emission Limit, where the Department determines there are not appropriate methods to demonstrate actual emissions, the owner or operator shall use the best representative data to develop an emission factor, subject to Department approval.



## Environmental Quality Commission

- Rule Adoption Item  
 Action Item  
 Information Item

Agenda Item C  
October 28-29, 1993 Meeting

### Title:

Revisions to Stationary Source Air Quality Emission Standards and Requirements [New Source Performance Standards (NSPS), National Emission Standard for Hazardous Air Pollutants (NESHAPS), Highest and Best Practicable Treatment and Control (H&B), and New Source Review (NSR)]

### Summary:

These amendments provide the Department with authority needed to include all federal requirements in Title V permits. This is necessary to have a fully approvable Title V Permit Program submittal by November 15, 1993. The amendments will provide for necessary delegation of the federal New Source Performance Standards and the National Emission Standards for Hazardous Air Pollutants.

The amendments also clarify and update requirements which must be met by Title V applicants. This will assist in implementation of the Title V program. The amendments clarify requirements of Highest and Best Practicable Treatment and Control. In addition, the amendments update the major New Source Review program to meet EPA requirements for State Implementation Plans.

### Department Recommendation:

It is recommended that the Commission adopt the rules and rule amendments as presented in Attachments A1 through A5 of this report. All rule amendments are proposed to be effective upon filing except Highest and Best (OAR 340-28-600 through 340-28-640) which will be effective January 1, 1994 to allow time for staff training.

Rules with a footnote indicating that they are part of the SIP are recommended for adoption as SIP revisions. Rules adopting federal NSPS requirements are recommended for adoption in order to request delegation of these programs. Rules adopting federal NESHAP requirements are recommended for adoption in order to request delegation and/or approval of these programs under Section 112(l) of the Clean Air Act.

  
Report Author

  
Division Administrator

  
Director

October 11, 1993

†Accommodations for disabilities are available upon request by contacting the Public Affairs Office at (503)229-5317(voice)/(503)229-6993(TDD).

State of Oregon  
Department of Environmental Quality

Memorandum<sup>†</sup>

Date: September 29, 1993

To: Environmental Quality Commission  
From: Fred Hansen, Director *Phyllis Taylor*  
Subject: Agenda Item C, October 28-29, 1993, EQC Meeting

**Background**

On July 9, 1993, the Director authorized the Air Quality Division to proceed to a rulemaking hearing on proposed rules which would update the Department's delegation of authority for EPA's New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants, clarify what is required by the Highest and Best Practicable Treatment and Control Rule, and amend the New Source Review Rules to improve clarity and meet EPA requirements.

Pursuant to the authorization, hearing notice was published in the Secretary of State's Bulletin on August 1, 1993. Notice was mailed on July 15, 1993 to the mailing list of those persons who have asked to be notified of rulemaking actions, and to a mailing list of persons known by the Department to be potentially affected by or interested in the proposed rulemaking action.

Public Hearings were held on August 16, 1993, in Pendleton and Grants Pass, August 17, 1993 in Bend, Portland and Medford, and August 18, 1993 in Klamath Falls. All hearings started at 7:00 p.m. Yone C. McNally served as presiding officer in Pendleton. Patti Seastrom served as presiding officer in Bend. David Collier served as presiding officer in Portland. Jackie Fern served as presiding officer in Grants Pass. Andy Ginsburg served as presiding officer in Medford and Klamath Falls. Written comment was received through August 18, 1993.

The Presiding Officer's Report (Attachment C) includes an index to comments received and a summary of public testimony. (A copy of written comments received is available upon request.)

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<sup>†</sup>Accommodations for disabilities are available upon request by contacting the Public Affairs Office at (503)229-5317(voice)/(503)229-6993(TDD).

Department staff have evaluated the comments received (Attachment D). Based upon that evaluation, modifications to the initial rulemaking proposal are being recommended by the Department. These modifications are summarized below and detailed in Attachment E.

The following sections summarize the issue that this proposed rulemaking action is intended to address, the authority to address the issue, the process for development of the rulemaking proposal including alternatives considered, a summary of the rulemaking proposal presented for public hearing, a summary of the significant public comments and the changes proposed in response to those comments, a summary of how the rule will work and how it is proposed to be implemented, and a recommendation for Commission action.

#### **Issues this Proposed Rulemaking Action is Intended to Address**

This proposal is intended to address three main issues. First, it is intended to ensure that the Department can submit an approvable Title V permit program to EPA by the Clean Air Act deadline of November 15, 1993. To be approvable, the Department must have authority to include all federally applicable requirements in Title V permits. Presently, the Department does not have full delegation for federal New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants. This proposal would provide authority necessary to obtain this delegation.

Second, the proposal is intended to aid in implementation of the Title V permit program. Applicants for permits under that program must demonstrate compliance with all applicable standards. One of these standards, Highest and Best Practicable Treatment and Control (OAR 340-28-600), is a general requirement which requires significant interpretation by the Department. In order to aid in consistent application of the rule and ensure no ambiguity in this requirement which must be addressed in Title V permit applications and in provisions of Title V permits, the proposal would establish specific requirements under Highest and Best.

Third, the proposal is intended to address problems with the New Source Review rules identified by EPA and make other housekeeping changes identified by the Department. These changes are needed to assist in implementing the Title V program and to ensure that the State Implementation Plan is approvable.

### **Relationship to Federal and Adjacent State Rules**

In order for states to receive approval of their Title V federal operating permit programs, they must be able to demonstrate that they have the authority to enforce all applicable federal requirements. New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) are federal requirements established under the Clean Air Act which must be included in Title V permits. States may receive delegation of the NSPS and NESHAPS programs if they adopt rules which are at least as stringent as the federal rules. Under Title V, states must have authority to include the federal requirement in Title V permits with no substantive changes.

Highest and Best Practicable Treatment and Control and New Source Review are requirements included in the federally approved State Implementation Plan (SIP) and therefore must be included in Title V permits. The U.S. Environmental Protection Agency (EPA) has identified several areas in which the New Source Review rules are less stringent than federal requirements. In order to receive full approval of the SIP, the New Source Review Rules must be revised.

### **Authority to Address the Issue**

Oregon Revised Statutes, Chapter 468A, contains the Department's authority to adopt air quality standards and regulations to implement those standards. Senate Bill 86, passed by the Oregon Legislature during 1993 and signed into law by the Governor, clarified the Commission's authority concerning Highest and Best Practicable Treatment and Control.

### **Process for Development of the Rulemaking Proposal (including alternatives considered)**

This proposal was developed with the assistance of an Industrial Source Control Advisory Committee which includes representatives of the regulated community, environmental organizations and the public. Attachment F contains a list of the Advisory Committee members. The Advisory Committee discussed aspects of the proposal at its meetings on April 13, May 11 and June 9, 1993. At the April 13th meeting, the Advisory Committee appointed a working group to further discuss proposed amendments to the Highest and Best Practicable Treatment and Control rule. This work group met on April 26, May 6, May 27 and June 4, 1993. In addition, the Department met with representatives of the regulated community and environmental groups on several occasions to discuss the proposal. The discussions at these meetings helped the

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Department to develop the proposal and many recommendations of the Advisory Committee are included in the proposal. The summary of public comments (Attachment C) and the Department's evaluation of comments (Attachment D) were distributed to the Advisory Committee and discussed at meetings on September 7 and October 4, 1993. The members present at the October 4 meeting generally supported the Department's evaluation of comments. However, public and environmental Advisory Committee members who were not at the October 4 meeting subsequently indicated that they continue to oppose the proposed amendments to Highest and Best Practicable Treatment and Control. The Department was constrained in addressing these issues by SB 86 as described below (see also Summary of Significant Public Comments).

The federal regulations, 40 CFR Parts 60 and 61 were the basis for amendments to the NSPS and NESHAP rules. The federal rules which identify the sources that are subject to each requirement were detailed in the proposal. The actual requirements for these sources were incorporated in the proposal by reference to the federal rules. The Department considered adopting the federal requirements only for major sources subject to the Title V program, but rejected this alternative so that smaller sources would not have to work with both EPA and the Department. The Department also considered adopting its own rules instead of adopting federal rules by reference. This alternative was rejected because of the requirement to include the federal provision in Title V permits and because there presently is not a need identified to be more stringent than federal rules. However, the proposed rule indicates that the Commission may adopt additional requirements if necessary at a future date.

The revisions to the Highest and Best Practicable Treatment and Control rule were developed by identifying the Department's past practices in implementing this rule and developing specific requirements and procedures based on these past practices and on statutory requirements. The Department sought to ensure that the proposal would meet the intent of the existing rule and related statute, provide more specificity as to control required, be reasonable to implement and enforce, aid in consistent application within a source category and throughout the state; and encourage pollution prevention. The Department considered adopting additional requirements for hazardous air pollutants (HAP) under Highest and Best. This was rejected because of the significant increase in HAP regulation under rules adopted by the Commission on September 10, 1993. However, the authority for the Commission to adopt additional specific HAP rules under Highest and Best was retained, consistent with Senate Bill 86 adopted by the 1993 Legislature.

**Summary of Rulemaking Proposal Presented for Public Hearing and Discussion of Significant Issues Involved.**

- **Update the Department's delegation of authority for EPA's New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants.** The Department has partial delegation from EPA to enforce these programs. The amendments would, with a few exceptions for requirements which have been deferred from Title V permitting, adopt EPA's rules by reference so that the Department can apply for full delegation of these programs. This will not add additional requirements for sources, but will enable the Department to enforce the requirements in lieu of EPA. Without these amendments, EPA would not be able to approve the Department's operating permit program required under Title V of the Clean Air Act.
- **Clarify what is required by the Highest and Best Practicable Treatment and Control Rule.** The existing rule, which pre-dated more specific state and federal requirements, is broad in scope and considered by many as ambiguous. The proposal would clarify the requirements consistent with the Department's historical interpretation and statutory provisions. This will provide greater clarity to sources, particularly when making application for federal operating permits.
- **Amend the New Source Review Rules to address EPA requirements and make clarifications.** The proposal would amend several definitions and other rules for consistency with federal requirements for the program in response to EPA comments and Department review.

**Summary of Significant Public Comment and Changes Proposed in Response**

The Department received numerous comments regarding the proposal. The comments are summarized in Attachment C and the Department's response is provided in attachment D.

The most significant comments concerned the amendments to Highest and Best Practicable Treatment and Control. Environmental groups and citizens were concerned that the Department would lose the authority to address by permit condition emissions of hazardous air pollutants (HAP) which are not subject to the new HAP rules in Division 32. This includes non-major sources of HAP, unlisted HAPs, and existing major sources of HAP prior to development of emission standards by EPA. Industry commented that HAPs should be addressed under Division 32 and the Department should not exceed the federal program.

The proposed rule addresses one specific class of unlisted HAPs (chemical weapons) and retains authority for the Commission to adopt additional specific rules to address HAPs or source categories if necessary to protect public health and the environment. The Department believes that the proposal is the most reasonable way to address HAPs under Highest and Best and recommends adopting the rules as proposed with minor changes described in Attachment E. Public comments regarding Highest and Best are summarized in attachment C2 (comments 1-10), and the Department's response is provided in attachment D.

Another significant area of comment concerns the regulation of HAPs under the New Source Review Program. The existing New Source Review rules apply to all regulated pollutants, including HAPs. The 1990 amendments to the Clean Air Act allow states to exempt HAPs from New Source Review, and industry comments urged the Department to do so. The proposal was not intended as an overhaul of the New Source Review program, but rather as a minor revision to address outstanding EPA comments. The Department intends to begin a comprehensive review of the New Source Review rules this Fall, and the issue of HAP regulation under New Source Review will be carefully considered in light of the overall New Source Review and HAP programs. As a stop gap measure, the proposal exempts HAP emissions which are subject to a Maximum Achievable Control Technology (MACT) standard under Division 32 from New Source Review.

EPA commented that Oregon's asbestos rules do not contain the survey requirements in the federal asbestos NESHAP. Since these are federally applicable requirements, they must be included in Title V permits. The Department agrees that these provisions must be adopted for major sources in order for the Title V program to be fully approvable. Because this issue was not included in the public notice for this proposal, it is being proposed as a separate emergency rulemaking action for consideration at the Commission's October 28-29, 1993 meeting.

The remaining comments either pointed out specific concerns with the proposal or asked for clarification. The Department made numerous minor changes to the proposal in response to these concerns. These changes are described in the Department's response to comments (Attachment D) and the specific changes are presented in attachment E.

#### **Summary of How the Proposed Rule Will Work and How it Will be Implemented**

These rules will be implemented through the Department's permit and construction notice programs. New and modified sources will be required to identify how they will comply

### **Summary of How the Proposed Rule Will Work and How it Will be Implemented**

These rules will be implemented through the Department's permit and construction notice programs. New and modified sources will be required to identify how they will comply with applicable requirements in permit applications and notices. The applicable requirements will be included in permits and construction/modification approvals.

Because the proposal does not impose new requirements for sources, although it does shift enforcement of some requirements from EPA to the Department, the Department expects existing sources to be in compliance with applicable requirements upon adoption. Where the requirements are not already included in permits for existing sources, the Department intends in most cases to incorporate the requirements in permits upon renewal. For sources subject to the federal operating permit program, the requirements will be incorporated in permits as they are issued during the phase-in period of up to 3 years after the effective date of the federal operating permit program. For new and modified sources, the Department will incorporate the requirements upon permit or construction/modification approval.

### **Recommendation for Commission Action**

It is recommended that the Commission adopt the rules and rule amendments as presented in Attachments A1 through A5 of this report. All rule amendments are proposed to be effective upon filing except Highest and Best (OAR 340-28-600 through 340-28-640) which will be effective January 1, 1994 to allow time for staff training.

Rules with a footnote indicating that they are part of the SIP are recommended for adoption as SIP revisions. Rules adopting federal NSPS requirements are recommended for adoption in order to request delegation of these programs. Rules adopting federal NESHAP requirements are recommended for adoption in order to request delegation and/or approval of these programs under Section 112(l) of the Clean Air Act.

### **Attachments**

- A. Rule (Amendments) Proposed for Adoption:
  - A1. Amendments to OAR 340-12-050, Air Quality Classification of Violations
  - A2. Amendments to Chapter 340, Division 28, Specific Industrial Standards
  - A3. Amendments to Chapter 340, Division 28, Stationary Source Air Pollution Control and Permitting Procedures



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- A4. Amendments to OAR 340-31-005 and 340-31-105, Air Quality Standards and Prevention of Significant Deterioration
- A5. Amendments to Chapter 340, Division 32, Hazardous Air Pollutants
- B. Supporting Procedural Documentation:
  - B1. Legal Notice of Hearing
  - B2. Public Notice of Hearing (Chance to Comment)
  - B3. Rulemaking Statements (Statement of Need)
  - B4. Fiscal and Economic Impact Statement
  - B5. Land Use Evaluation Statement
- C. Presiding Officer's Report on Public Hearing (including an index to comments received and a summary of public testimony)
- D. Department's Evaluation of Public Comment
- E. Detailed Changes to Original Rulemaking Proposal made in Response to Public Comment
- F. Advisory Committee Membership
- G. Rule Implementation Plan

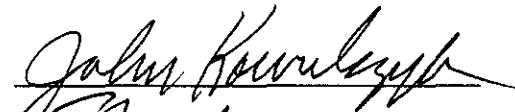

Reference Documents (available upon request)

Written Comments Received (indexed in Attachment C)

Approved:

Section:

Division:

Report Prepared By: Andy Ginsburg

Phone: 229-5581

Date Prepared: September 29, 1993

ADG/YM  
Adopt.cov  
9/29/93

## ATTACHMENT A1

### AMENDMENTS TO OAR CHAPTER 340, DIVISION 12<sup>1</sup>

#### Enforcement Procedures and Civil Penalties

##### Air Quality Classification of Violations

**340-12-050** Violations pertaining to air quality shall be classified as follows:

- (1) Class One:
  - (a) Violation of a Commission or Department Order, or variance;
  - (b) Constructing or operating a source without an Air Contaminant Discharge Permit;
  - (c) Modifying a source with an Air Contaminant Discharge Permit without first notifying and receiving approval from the Department;
  - (d) Violation of a compliance schedule in a permit;
  - (e) Exceeding an allowable emission level of a hazardous air pollutant.
  - (f) Exceeding an emission or opacity permit limitation for a criteria pollutant, by a factor of greater than or equal to two times the limitation, within 10 kilometers of either a Non-Attainment Area or a Class I Area for that criteria pollutant;
  - (g) Causing emissions that are a hazard to public safety;
  - (h) Failure to comply with Emergency Action Plans Or allowing excessive emissions during emergency episodes;
  - (i) Violation of a work practice requirement for asbestos abatement projects which causes a potential for public exposure to asbestos or release of asbestos into the environment;
  - (j) Storage or accumulation of friable asbestos material or asbestos-containing waste material from an asbestos abatement project which causes a potential for public exposure to asbestos or release of asbestos into the environment;
  - (k) Visible emissions of asbestos during an asbestos abatement project or during collection, processing, packaging, transportation, or disposal of asbestos-containing waste material;
  - (l) Conduct of an asbestos abatement project by a person not licensed as an asbestos abatement contractor;
  - (m) Violation of a disposal requirement for asbestos-containing waste material which causes a potential for public exposure to asbestos or release of asbestos into the environment;
  - (n) Advertising to sell, offering to sell or selling a non-certified wood stove;
  - (o) Illegal open burning in violation of OAR 340-23-042(2);
  - (p) Causing or allowing open field burning without first obtaining a valid open field burning permit;
  - (q) Causing or allowing open field burning or stack burning where prohibited by OAR 340-26-010(7) or OAR 340-26-055(1)(e);

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1. Only amended and new rules are printed.

- (r) Causing or allowing any propane flaming which results in visibility impairment on any Interstate Highway or Roadway specified in OAR 837-110-080(1) and (2);
  - (s) Failing to immediately and actively extinguish all flames and smoke sources when any propane flaming results in visibility impairment on any Interstate Highway or Roadway specified in OAR 837-110-080(1) and (2);
  - (t) Causing or allowing propane flaming of grass seed or cereal grain crops, stubble, or residue without first obtaining a valid propane flaming burning permit;
  - (u) Stack or pile burning grass seed or cereal grain crop residue without first obtaining a valid stack or pile burning permit;
  - (v) Open field burning or propane flaming when State Fire Marshal restrictions are in effect;
  - (w) Failure to install vapor recovery piping in accordance with standards set forth in OAR Chapter 340, Division 150;
  - (x) Installing vapor recovery piping without first obtaining a service provider license in accordance with requirements set forth in OAR Chapter 340, Division 160;
  - (y) Submitting falsified actual or calculated interim emission fee data;
  - (z) Failure to provide access to premises or records when required by law, rule, permit or order;
  - (aa) Any violation related to air quality which causes a major harm or poses a major risk of harm to public health or the environment.
- (2) Class Two:
- (a) Exceeding emission or opacity limitations in permits or rules;
  - (b) Violating standards in permits or rules for fugitive emissions, particulate deposition, or odors;
  - (c) **Failure to take corrective action or maintain records of emissions which equal or exceed emission action levels as required by OAR 340-28-620(2);**
  - ~~(f)d~~ Illegal open burning of commercial, construction and/or demolition, and/or agricultural waste;
  - ~~(f)e~~ Failing to report excess emissions due to upset or breakdown of air pollution control equipment;
  - ~~(f)f~~ Failure to comply with asbestos abatement licensing, certification, or accreditation requirements;
  - ~~(f)g~~ Failure to provide notification of an asbestos abatement project;
  - ~~(f)h~~ Failure to display permanent labels on a certified woodstove;
  - ~~(f)i~~ Alteration of a permanent label for a certified woodstove;
  - ~~(f)j~~ Failure to use Department-approved vapor control equipment when transferring fuel;
  - ~~(f)k~~ Operating a vapor recovery system without first obtaining a piping test performed by a licensed service provider as required by OAR Chapter 340, Division 160;
  - ~~(f)l~~ Failure to obtain Department approval prior to installing a Stage II vapor recovery system not already registered with the Department as specified in Department rules;

- (~~h~~m) Failure to actively extinguish all flames and major smoke sources from open field or stack burning when prohibition conditions are imposed by the Department or when instructed to do so by an agent or employe of the Department;
- (~~m~~n) Causing or allowing a propane flaming operation to be conducted in a manner which causes or allows an open flame to be sustained;
- (~~n~~o) Installing, servicing, repairing, disposing of or otherwise treating automobile air conditioners without recovering and recycling chlorofluorocarbons using approved recovery and recycling equipment;
- (~~p~~q) Selling, or offering to sell, or giving as a sales inducement any aerosol spray product which contains as a propellant any compound prohibited under ORS 468A.655;
- (~~p~~q) Selling any chlorofluorocarbon or halon containing product prohibited under ORS 468A.635;
- (~~r~~r) Failure to pay an interim emission fee;
- (~~r~~s) Substantial underpayment of an interim emission fee;
- (~~s~~t) Submitting inaccurate actual or calculated interim emission fee data;
- (~~t~~u) Any violation related to air quality which is not otherwise classified in these rules.

(3) Class Three:

- (a) Illegal residential open burning;
- (b) Improper notification of an asbestos abatement project;
- (c) Failure to display a temporary label on a certified wood stove~~r~~.

Stat. Auth.: ORS Ch. ~~459, 466, 467 & 468.600—468.621~~**468 & 468A**

Hist.: DEQ 78, f. 9-6-74, ef. 9-25-74; DEQ 5-1980, f. & ef. 1-28-80; DEQ 22-1984, f. & ef. 11-8-84; DEQ 22-1988, f. & cert. ef. 9-14-88; DEQ 4-1989, f. & cert. ef. 3-14-89; DEQ 15-1990, f. & cert. ef. 3-30-90; DEQ 31-1990, f. & cert. ef. 8-15-90; AQ 15, f. & ef. 1-30-92 (and corrected 2-5-92)

## ATTACHMENT A2

### AMENDMENTS TO OAR CHAPTER 340, DIVISION 25<sup>1</sup>

#### Highest and Best Practicable Treatment and Control Required

##### 340-25-160

- ~~[(1) Notwithstanding the specific emission limits set forth in OAR 340-25-165, in order to maintain the lowest possible emission of air contaminants, the highest and best practicable treatment and control currently available shall in every case be provided, with consideration being given to the economic life of the existing equipment.~~
- ~~(2) All installed process and control equipment shall be operated at full effectiveness and efficiency at all times, such that emissions of contaminants are kept at lowest practicable levels.~~

~~[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]~~

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Hist.: [DEQ 50, f. 2-9-73, ef. 3-1-73; AQ 1-1993, f. & ef. 3-9-93; Repealed by DEQ]~~

#### Highest and Best Practicable Treatment and Control Required

##### 340-25-222

- ~~[(1) Notwithstanding the specific emission limits set forth in OAR 340-25-224, in order to maintain the lowest possible emission of air contaminants, the highest and best practicable treatment and control currently available shall in every case be provided, with consideration being given to the economic life of the existing equipment.~~
- ~~(2) All installed process and control equipment shall be operated at full effectiveness and efficiency at all times, such that emissions of contaminants are kept at lowest practicable levels.~~

~~[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]~~

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Hist.: [DEQ 2-1990, f. & cert. ef. 1-24-90; AQ 1-1993, f. & ef. 3-9-93; Repealed by DEQ]~~

#### Highest and Best Practicable Treatment and Control Requirement

~~340-25-275 In order to maintain the lowest possible emissions of air contaminants, the highest and best practicable treatment and control currently available shall in every case be provided, but this section shall not be construed to allow emissions to exceed the specific emission limits set forth in OAR 340-25-265.~~

~~[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]~~

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1. Only amended and new rules are printed.

Stat. Auth.: ~~ORS Ch. 468 & 468A~~

Hist.: ~~[DEQ 60, f. 12-5-73, ef. 12-25-73; AQ 1-1993, f. & ef. 3-9-93; Repealed by DEQ]~~

## General Provisions

### 340-25-310

- (1) OAR 340-25-305 through 340-25-325 establish minimum performance and emission standards for veneer, plywood, particleboard, and hardboard manufacturing operations.
- (2) Emission limitations established herein are in addition to, and not in lieu of, general emission standards for visible emissions, fuel burning equipment, and refuse burning equipment, except as provided for in OAR 340-25-315.
- (3) Emission limitations established herein and stated in terms of pounds per 1000 square feet of production shall be computed on an hourly basis using the maximum 8 hour production capacity of the plant.
- (4) ~~[Upon adoption of OAR 340-25-305 through 340-25-325, e]~~ Each affected veneer, plywood, particle~~[-]~~board, and hardboard plant shall proceed with a progressive and timely program of air pollution control~~[-, applying the highest and best practicable treatment and control currently available]~~. Each plant shall at the request of the Department submit periodic reports in such form and frequency as directed to demonstrate the progress being made toward full compliance with OAR 340-25-305 through 340-25-325.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 26, f. 3-31-71, ef. 4-25-71; DEQ 132, f. & ef. 4-11-77; AQ 1-1993, f. & ef. 3-9-93

## Highest and Best Practicable Treatment and Control Required

~~340-25-420 [Notwithstanding the specific emission limits set forth in OAR 340-25-415, the highest and best practicable treatment and control currently available shall in every case be provided.]~~

~~[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]~~

Stat. Auth.: ~~ORS Ch. 468 & 468A~~

Hist.: ~~[DEQ 37, f. 2-15-72, ef. 3-1-72; AQ 1-1993, f. & ef. 3-9-93; Repealed by DEQ]~~

## Emission Standards and Procedural Requirements for Hazardous Air Contaminants

### Policy

~~340-25-450 [The Commission finds and declares that certain air contaminants for which there is no ambient air standard may cause or contribute to an identifiable and significant increase in mortality or to an increase in serious irreversible or incapacitating reversible illness, and are therefore considered to be hazardous air~~

~~contaminants. Air contaminants currently considered to be in this category are asbestos, beryllium, and mercury. Additional air contaminants may be added to this category provided that no ambient air standard exists for the contaminant, and evidence is presented which demonstrates that the particular contaminant may be considered as hazardous. It is hereby declared the policy of the Department that the standards contained in OAR 340-25-450 through 340-25-485 and applicable to operators are to be minimum standards, and as technology advances, conditions warrant, and Department or regional authority rules require or permit, more stringent standards shall be applied.~~

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Hist.: DEQ 96, f. 9-2-75, ef. 9-25-75; DEQ 9-1988, f. 5-19-88, cert. ef. 6-1-88 (and corrected 6-3-88); AQ 4-1993, f. & ef. 3-9-93} **[Repealed]**~~

## Definitions

~~340-25-455 [As used in OAR 340-25-450 through 340-25-485:~~

- ~~(1) "Adequately wet" means to sufficiently mix or penetrate asbestos containing material with liquid to prevent the release of particulate asbestos materials. The absence of visible emissions is not sufficient evidence of being adequately wet.~~
- ~~(2) "Asbestos" means the asbestiform varieties of serpentine (chrysotile), riebeckite (crocidolite), cummingtonite grunerite (amosite), anthophyllite, actinolite and tremolite."~~
- ~~(3) "Asbestos containing waste material" means any waste which contains asbestos tailings or any commercial asbestos, and is generated by a source subject to OAR 340-25-450 through 340-25-469. This term includes, but not limited to, filters from control devices, asbestos abatement project waste, and bags or containers that previously contained commercial asbestos.~~
- ~~(4) "Asbestos abatement project" means any demolition, renovation, repair, construction or maintenance activity of any public or private facility that involves the repair, enclosure, encapsulation, removal, salvage, handling or disposal of any material with the potential of releasing asbestos fibers from asbestos containing material into the air."  
NOTE: An asbestos abatement project is not considered to be a source under OAR 340-25-460(2) through (6). Emergency fire fighting is not an asbestos abatement project.~~
- ~~(5) "Asbestos manufacturing operation" means the combining of commercial asbestos, or in the case of woven friction products, the combining of textiles containing commercial asbestos with any other material(s) including commercial asbestos, and the processing of this combination into a product as specified in OAR 340-25-465(3).~~
- ~~(6) "Asbestos containing material" means asbestos or any material containing more than one percent (1%) asbestos by weight, including particulate asbestos material.~~
- ~~(7) "Asbestos mill" means any facility engaged in the conversion or any intermediate step in the conversion of asbestos ore into commercial asbestos.~~
- ~~(8) "Asbestos tailings" mean any solid waste product of asbestos mining or milling operations which contains asbestos.~~
- ~~(9) "Beryllium" means the element beryllium. Where weight or concentrations~~

- are specified in OAR 340 25 470 and 340 25 475, such weights or concentrations apply to beryllium only, excluding any associated elements.
- (10) ~~"Beryllium alloy" means any metal to which beryllium has been added in order to increase its beryllium content, and which contains more than 0.1 percent beryllium by weight.~~
  - (11) ~~"Beryllium containing waste" means any material contaminated with beryllium and/or beryllium compounds used or generated during any process or operation performed by a source subject to OAR 340 25 450 through 340 25 485.~~
  - (12) ~~"Beryllium ore" means any naturally occurring material mined or gathered for its beryllium content.~~
  - (13) ~~"Commercial asbestos" means any variety of asbestos which is produced by extracting asbestos from asbestos ore.~~
  - (14) ~~"Commission" means the Environmental Quality Commission.~~
  - (15) ~~"Demolition" means the wrecking or removal of any load supporting structural member of a facility together with any related handling operations or the intentional burning of any facility.~~
  - (16) ~~"Department" means the Department of Environmental Quality.~~
  - (17) ~~"Director" means the Director of the Department or regional authority and authorized deputies or officers.~~
  - (18) ~~"Fabricating" means any processing (e.g., cutting, sawing, drilling) of a manufactured product that contains commercial asbestos, with the exception of processing at temporary sites (field fabricating) for the construction or restoration of facilities. In the case of friction products, fabricating includes bonding, debonding, grinding, sawing, drilling, or other similar operations performed as part of fabricating.~~
  - (19) ~~"Facility" means all or part of any public or private building, structure, installation, equipment, or vehicle or vessel, including but not limited to ships.~~
  - (20) ~~"Friable asbestos material" means any asbestos containing material that hand pressure can crumble, pulverize or reduce to powder when dry.~~
  - (21) ~~"Fugitive emissions" means any emissions which escape from a point or area that is not identifiable as a stack, vent, duct or equivalent opening.~~
  - (22) ~~"Hazardous air contaminant" means any air contaminant considered by the Department or Commission to cause or contribute to an identifiable and significant increase in mortality or to an increase in serious irreversible or incapacitating reversible illness and for which no ambient air standard exists.~~
  - (23) ~~"HEPA filter" means a high efficiency particulate air filter capable of filtering 0.3 micron particles with 99.97 percent efficiency.~~
  - (24) ~~"Inactive waste disposal site" means any disposal site where the operator has allowed the Department's solid waste permit to lapse, has gone out of business, or no longer receives asbestos containing waste.~~
  - (25) ~~"Interim storage of asbestos containing material" means the storage of asbestos containing waste material which has been placed in a container outside a regulated area until transported to an authorized landfill.~~
  - (26) ~~"Mercury" means the element mercury, excluding any associated elements and includes mercury in particulates, vapors, aerosols, and compounds.~~
  - (27) ~~"Mercury ore" means any mineral mined specifically for its mercury content.~~
  - (28) ~~"Mercury ore processing facility" means a facility processing mercury ore to obtain mercury.~~



- ~~(29) "Mercury chlor alkali cell" means a device which is basically composed of an electrolyzer section and a denuder (decomposer) section, and utilizes mercury to produce chlorine gas, hydrogen gas, and alkali metal hydroxide.~~
- ~~(30) "Nonfriable asbestos containing material" means any material containing more than one percent (1%) asbestos as determined by weight that when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.~~
- ~~(31) "Particulate asbestos material" means any finely divided particles of asbestos material.~~
- ~~(32) "Person" means any individual, corporation, association, firm, partnership, joint stock company, public and municipal corporation, political sub division, the state and any agency thereof, and the federal government and any agency thereof.~~
- ~~(33) "Propellant" means a fuel and oxidizer physically or chemically combined, containing beryllium or beryllium compounds, which undergoes combustion to provide rocket propulsion.~~
- ~~(34) "Propellant plant" means any facility engaged in the mixing, casting, or machining of propellant.~~
- ~~(35) "Regional authority" means any regional air quality control authority established under the provisions of ORS 468A.105.~~
- ~~(36) "Renovation" means altering in any way one or more facility components. Operations in which load supporting structural members are wrecked or removed are excluded.~~
- ~~(37) "Roadways" mean surfaces on which vehicles travel. This term includes public and private highways, roads, streets, parking areas, and driveways.~~
- ~~(38) "Small scale asbestos abatement project" means any asbestos abatement project which meets the definition given in OAR 340-33-020(17).~~
- ~~(39) "Small scale, short duration renovating and maintenance activity" means an activity which meets the definition given in OAR 340-33-020(18).~~
- ~~(40) "Startup" means commencement of operation of a new or modified source resulting in release of contaminants to the ambient air.~~
- ~~(41) "Structural member" means any load supporting member of a facility, such as beams and load supporting walls; or any non supporting member, such as ceilings and non load supporting walls.~~
- ~~(42) "Waste generator" means any person performing an asbestos abatement project or any owner or operator of a source covered by this section whose act or process generates asbestos containing waste material.~~
- ~~(43) "Waste shipment record" means the shipment document, required to be originated and signed by the waste generator; used to track and substantiate the disposition of asbestos containing waste material.~~

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 96, f. 9-2-75, of. 9-25-75; DEQ 22-1982, f. & of. 10-21-82; DEQ 9-1988, f. 5-19-88, cert. of. 6-1-88 (and corrected 6-3-88); DEQ 4-1990, f. & cert. of. 2-7-90 (and corrected 5-21-90 & 7-8-91); AQ 11-1992, f. & of. 10-7-91; AQ 1-1993, f. & of. 3-9-93} [Renumbered to OAR 340-32-5590]

## General Provisions

### 340-25-460

- ~~{(1) Applicability. OAR 340-25-450 through 340-25-485 shall apply to any source which emits air contaminants for which a hazardous air contaminant standard~~

~~is prescribed. Compliance with OAR 340 25 450 through 340 25 485 shall not relieve the source from compliance with other applicable rules of the Oregon Administrative Rules, Chapter 340, or with applicable provisions of the Oregon Clean Air Implementation Plan.~~

~~(2) Prohibited activities:~~

~~(a) No person shall construct, install, establish, develop or operate any source of emissions subject to OAR 340 25 450 through 340 25 485 without first obtaining an Air Contaminant Discharge Permit in accordance with OAR 340 20 140 through 340 20 185.~~

~~(b) No person shall modify any existing source such that emissions of contaminants subject to OAR 340 25 450 through 340 25 485 are significantly increased without first applying for and obtaining a modified permit.~~

~~(c) No person subject to the provisions of the emission standards contained in OAR 340 25 450 through 340 25 485 shall fail to provide reports or report revisions as required in OAR 340 25 450 through 340 25 485.~~

~~(3) Application for approval of construction or modification. All applications for construction or modification shall comply with OAR 340 20 140 through OAR 340 20 185 and OAR 340 25 450 through 340 25 485.~~

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

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

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

~~(5) Source emission tests and ambient air monitoring:~~

~~(a) Emission tests and monitoring shall be conducted using methods set forth in the Department's Source Sampling Manual.~~

~~(b) At the request of the Department, any source subject to standards set forth in OAR 340 25 450 through 340 25 485 may be required to provide emission testing facilities as follows:~~

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

~~(B) Utilities for sampling and testing equipment.~~

~~(c) Emission tests may be deferred if the Department determines that the source is meeting the standard as required by OAR 340 25 450 through 340 25 485. If such a deferral of emission tests is requested, information supporting the request shall be submitted with the request for written approval of operation. Approval of a deferral of emission tests shall not in any way prohibit the Department from canceling the deferral if further information indicates that such testing may be necessary to insure compliance with OAR 340 25 450 through 340 25 485.~~

~~(6) Delegation of authority. The Commission may, when any regional authority requests and provides evidence demonstrating its capability to carry out the provisions of OAR 340 25 450 through 340 25 485 relating to hazardous contaminants, authorize and confer jurisdiction within its boundary until such~~

~~authority and jurisdiction shall be withdrawn for cause by the Commission.~~

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

~~Stat. Auth.: ORS Ch. 468 & 468A-~~

~~Hist.: DEQ 96, f. 9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82; DEQ 19-1986, f. & ef. 11-7-86; DEQ 9-1988, f. 5-19-88, cert. ef. 6-1-88 (and corrected 6-3-88); DEQ 24-1989, f. & cert. ef. 10-26-89; AQ 11-1992, f. & ef. 10-7-91; AQ 1-1993, f. & ef. 3-9-93; Renumbered to OAR-340-32-220, 230, 240, 270, 5500, 5510~~

## **Emission Standards and Procedural Requirements for Asbestos**

### **340-25-465**

~~{(1) Emission standard for asbestos mills. No person shall cause to be discharged into the atmosphere any visible emissions from any asbestos milling operation, including fugitive emissions, except as provided under OAR 340-25-468(14) Air Cleaning. For purposes of this rule, the presence of uncombined water in the emission plume shall not be cause for failure to meet the visible emission requirement. Outside storage of asbestos materials is not considered a part of an asbestos mill. Each owner or operator of an asbestos mill shall meet the following requirements:~~

~~(a) Monitor each potential source of asbestos emissions from any part of the mill facility, including air cleaning devices, process equipment, and buildings that house equipment for material processing and handling, at least once each day, during daylight hours, for visible emissions to the outside air during periods of operations. The monitoring shall be by visual observation of at least 15 seconds duration per source of emissions.~~

~~(b) Inspect each air cleaning device at least once each week for proper operation and for changes that signal the potential for malfunction including, to the maximum extent possible without dismantling other than opening the device, the presence of tears, holes, and abrasions in filter bags and for dust deposits on the clean side of bags. For air cleaning devices that cannot be inspected on a weekly basis according to this subsection, submit to the Department, revise as necessary, and implement a written maintenance plan to include, at a minimum, the following:~~

~~(A) Maintenance schedule.~~

~~(B) Recordkeeping plan.~~

~~(c) Maintain records of the results of visible emissions monitoring and air cleaning device inspections using a format approved by the Department which includes the following:~~

~~(A) Date and time of each inspection.~~

~~(B) Presence or absence of visible emissions.~~

~~(C) Condition of fabric filters, including presence of any tears, holes, and abrasions.~~

~~(D) Presence of dust deposits on clean side of fabric filters.~~

~~(E) Brief description of corrective actions taken, including date and time.~~

~~(F) Daily hours of operation for each air cleaning device.~~

- ~~(d) Furnish upon request, and make available at the affected facility during normal business hours for inspection by the Department, all records required under this section.~~
- ~~(e) Retain a copy of all monitoring and inspection records for at least two years.~~
- ~~(f) Submit a copy of visible emission monitoring records to the Department quarterly. The quarterly reports shall be postmarked by the 30th day following the end of the calendar quarter.~~
- ~~(g) Asbestos containing waste material produced by any asbestos milling operation will be disposed of according to OAR 340 25 469.~~
- ~~(2) Roadways and Parking Lots. No person may construct or maintain a roadway with asbestos tailings or asbestos containing waste material on that roadway, unless (for asbestos tailings):~~
  - ~~(a) It is a temporary roadway on an area of asbestos ore deposits (asbestos mine); or~~
  - ~~(b) It is a temporary roadway at an active asbestos mill site and is encapsulated with a resinous or bituminous binder. The encapsulated road surface must be maintained at a minimum frequency of once per year to prevent dust emissions; or~~
  - ~~(c) It is encapsulated in asphalt concrete meeting the specifications contained in section 401 of Standard Specifications for Construction of Roads and Bridges on Federal Highway Projects, FP 85, 1985, or their equivalent.~~
- ~~(3) Manufacturing. No person shall cause to be discharged into the atmosphere any visible emissions, except as provided in OAR 340 25 468(14) Air Cleaning, from any building or structure in which manufacturing operations utilizing commercial asbestos are conducted, or directly from any such manufacturing operations if they are conducted outside buildings or structures, or from any other fugitive emissions. All asbestos containing waste material produced by any manufacturing operation shall be disposed of according to OAR 340 25 469. Visible emissions from boilers or other points not producing emissions directly from the manufacturing operation, and having no possible asbestos material in the exhaust gases, shall not be considered for purposes of this rule. The presence of uncombined water in the exhaust plume shall not be cause for failure to meet the visible emission requirements.~~
  - ~~(a) Applicability. Manufacturing operations considered for purposes of this rule are as follows:~~
    - ~~(A) The manufacture of cloth, cord, wicks, tubing, tape, twine, rope, thread, yarn, roving, lap, or other textile materials.~~
    - ~~(B) The manufacture of cement products.~~
    - ~~(C) The manufacture of fire proofing and insulating materials.~~
    - ~~(D) The manufacture of friction products.~~
    - ~~(E) The manufacture of paper, millboard, and felt.~~
    - ~~(F) The manufacture of floor tile.~~
    - ~~(G) The manufacture of paints, coatings, caulks, adhesives, or sealants.~~
    - ~~(H) The manufacture of plastics and rubber materials.~~
    - ~~(I) The manufacture of chlorine, using asbestos diaphragm~~

- technology.
- ~~(J) The manufacture of shotgun shell wads.~~
  - ~~(K) The manufacture of asphalt concrete.~~
  - ~~(L) Any other manufacturing operation which results or may result in the release of asbestos material to the ambient air.~~
- ~~(b) Monitor each potential source of asbestos emissions from any part of the manufacturing facility, including air cleaning devices, process equipment, and buildings housing material processing and handling equipment, at least once each day during daylight hours for visible emissions to the outside air during periods of operation. The monitoring shall be visual observation of at least 15 seconds.~~
  - ~~(c) Inspect each air cleaning device at least once each week for proper operation and for changes that signal the potential for malfunctions, including, to the maximum extent possible without dismantling other than opening the device, the presence of tears, holes, and abrasions in filter bags and for dust deposits on the clean side of bags. For air cleaning devices that cannot be inspected on a weekly basis according to this subsection, submit to the Department, revise as necessary, and implement a written maintenance plan to include, at a minimum, the following:
    - ~~(A) Maintenance schedule.~~
    - ~~(B) Recordkeeping plan.~~~~
  - ~~(d) Maintain records of the results of visible emission monitoring and air cleaning device inspections using a format approved by the Department which includes the following:
    - ~~(A) Date and time of each inspection.~~
    - ~~(B) Presence or absence of visible emissions.~~
    - ~~(C) Condition of fabric filters, including presence of any tears, holes and abrasions.~~
    - ~~(D) Presence of dust deposits on clean side of fabric filters.~~
    - ~~(E) Brief description of corrective actions taken, including date and time.~~
    - ~~(F) Daily hours of operation for each air cleaning device.~~~~
  - ~~(e) Furnish upon request, and make available at the affected facility during normal business hours for inspection by the Department, all records required under this section.~~
  - ~~(f) Retain a copy of all monitoring and inspection records for at least two years.~~
  - ~~(g) Submit quarterly a copy of the visible emission monitoring records to the Department if visible emissions occurred during the report period. Quarterly reports shall be postmarked by the 30th day following the end of the calendar quarter.~~
  - ~~(h) Asbestos containing waste material produced by any asbestos milling operation shall be disposed of according to OAR 340-25-469.~~

Stat. Auth.: ORS Ch. 468 & 468A-

Hist.: DEQ 96, f. 9-2-75, ef. 9-25-75; DEQ 22 1982, f. & ef. 10-21-82; AQ 11 1992, f. & ef. 10-7-91; AQ 4 1993, f. & ef. 3-9-93} **[Renumbered to OAR 340-32-5600]**

## Asbestos Abatement Projects

### 340-25-466

- ~~{(1)} Any person who conducts an asbestos abatement project shall comply with OAR 340-25-467 and OAR 340-25-468(1) through (11). The following asbestos abatement projects are exempt from OAR 340-25-467 and OAR 340-25-468(1) through (11):~~
- ~~(a) Asbestos abatement conducted in a private residence which is occupied by the owner and the owner occupant performs the asbestos abatement.~~
  - ~~(b) Removal of nonfriable asbestos containing materials that are not shattered, crumbled, pulverized or reduced to dust until disposed of in an authorized disposal site. This exemption shall end whenever the asbestos containing material becomes friable and releases asbestos fibers into the environment.~~
  - ~~(c) Removal of less than three square feet or three linear feet of asbestos-containing material provided that the removal of asbestos is not the primary objective and methods of removal are in compliance with OAR 437-Division 3 "Construction" (29 CFR 1926.58 Appendix G). An asbestos abatement project shall not be subdivided into smaller sized units in order to qualify for this exemption.~~
  - ~~(d) Removal of asbestos containing materials which are sealed from the atmosphere by a rigid casing, provided that the casing is not broken or otherwise altered such that asbestos fibers could be released during removal, handling, and transport to an authorized disposal site.~~
- ~~(2) Open storage of friable asbestos containing material or asbestos containing waste material is prohibited.~~
- ~~(3) Open accumulation of friable asbestos containing material or asbestos containing waste material is prohibited.~~

~~NOTE: The requirements and jurisdiction of the Department of Insurance and Finance, Oregon Occupational Safety and Health Division and any other state agency are not affected by OAR 340-25-466 through 340-25-486.~~

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

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Hist.: AQ 11-1992, f. & of. 10-7-91; AQ 1-1993, f. & of. 3-9-93] [Renumbered to OAR 340-32-5610]~~

## Notifications Requirements

~~340-25-467 [Written notification of any asbestos abatement project shall be provided to the Department on a Department form. The notification must be submitted by the facility owner or operator or by the contractor in accordance with one of the procedures specified in section (1) or (2) of this rule except as provided in sections (4), (5) and (6):~~

- ~~(1) Submit the notifications as specified in subsection (c) below and the project notification fee to the Department at least ten days before beginning any asbestos abatement project.~~
- ~~(a) The project notification fee shall be:~~

- ~~(A) \$25 for each small scale asbestos abatement project except for small scale projects in residential buildings described in OAR 340 25 467(4).~~
- ~~(B) \$50 for each project greater than a small scale asbestos abatement project and less than 260 linear feet or 160 square feet.~~
- ~~(C) \$200 for each project greater than 260 linear feet or 160 square feet, and less than 2,600 linear feet or 1,600 square feet.~~
- ~~(D) \$500 for each project greater than 2,600 linear feet or 1,600 square feet, and less than 26,000 linear feet or 16,000 square feet.~~
- ~~(E) \$750 for each project greater than 26,000 linear feet or 16,000 square feet, and less than 260,000 linear feet or 160,000 square feet.~~
- ~~(F) \$1,000 for each project greater than 260,000 linear feet or 160,000 square feet.~~
- ~~(b) Project notification fees shall be payable with the completed project notification form. No notification will be considered to have occurred until the notification fee is submitted.~~
- ~~(c) The ten day notification requirement in (1) above may be temporarily waived in emergencies which directly affect human life, health, and property. This includes:
  - ~~(A) Emergencies where there is an imminent threat of loss of life or severe injury; or~~
  - ~~(B) Emergencies where the public is exposed to air borne asbestos fibers; or~~
  - ~~(C) Emergencies where significant property damage will occur if repairs are not made.~~~~
- ~~(d) The ten day notification requirement in (1) above may be temporarily waived for asbestos abatement projects which were not planned, resulted from unexpected events, and which if not immediately performed will cause damage to equipment or impose unreasonable financial burden. This includes the non routine failure of equipment.~~
- ~~(e) In either (c) or (d) above persons responsible for such asbestos abatement projects shall notify the Department by telephone prior to commencing work, or by 9 am of the next working day if the work was performed on a weekend or holiday. In any case notification as specified in (3) below and the appropriate fee shall be submitted to the Department within three days of commencing emergency or unexpected event asbestos abatement projects.~~
- ~~(f) The Department shall be notified prior to any changes in the scheduled starting or completion dates or other substantial changes or the notification will be void.~~
- ~~(g) If an asbestos project, equal to or greater than 2,600 linear feet or 1,600 square feet continues for more than one year, a new notification and fee shall be submitted annually thereafter until the project is complete.~~
- ~~(2) For small scale asbestos abatement projects conducted at one or more facilities by a single contractor or a single facility owner with centrally~~

~~controlled asbestos operations and maintenance the notification may be submitted as follows:~~

- ~~(a) Establish eligibility for use of this notification procedure with the Department prior to use;~~
  - ~~(b) Maintain on file with the Department a general asbestos abatement plan. The plan shall contain the information specified in subsections (3)(a) through (3)(i) of this rule to the extent possible;~~
  - ~~(c) Provide to the Department a summary report of all small scale asbestos abatement projects conducted in the previous three months by the 15th day of the month following the end of the calendar quarter. The summary report shall include the information specified in subsections (3)(i) through (3)(m) of this rule for each project, a description of any significant variations from the general asbestos abatement plan; and a description of asbestos abatement projects anticipated for the next quarter;~~
  - ~~(d) Provide to the Department, upon request, a list of asbestos abatement projects which are scheduled or are being conducted at the time of the request;~~
  - ~~(e) Submit a project notification fee of \$200 per year prior to use of this notification procedure and annually thereafter while this procedure is in use;~~
  - ~~(f) Failure to provide payment for use of this notification procedure shall void the general asbestos abatement plan and each subsequent abatement project shall be individually assessed a project notification fee.~~
- ~~(3) The following information shall be provided for each notification:~~
- ~~(a) Name and address of person conducting asbestos abatement.~~
  - ~~(b) Contractor's Oregon asbestos abatement license number, if applicable, and certification number of the supervisor for full scale asbestos abatement or certification number of the trained worker for a project which does not have a certified supervisor.~~
  - ~~(c) Method of asbestos abatement to be employed.~~
  - ~~(d) Procedures to be employed to insure compliance with OAR 340-25-468 and 340-25-469.~~
  - ~~(e) Names, addresses, and phone numbers of waste transporters.~~
  - ~~(f) Name and address or location of the waste disposal site where the asbestos containing waste material will be deposited.~~
  - ~~(g) Description of asbestos disposal procedure.~~
  - ~~(h) Description of building, structure, facility, installation, vehicle, or vessel to be demolished or renovated, including:
    - ~~(A) The age, present and prior use of the facility;~~
    - ~~(B) Address or location where the asbestos abatement project is to be accomplished.~~~~
  - ~~(i) Facility owner's or operator's name, address and phone number.~~
  - ~~(j) Scheduled starting and completion dates of asbestos abatement work.~~
  - ~~(k) Description of the asbestos type, approximate asbestos content (percent), and location of the asbestos containing material.~~
  - ~~(l) Amount of asbestos to be abated: linear feet, square feet, thickness.~~
  - ~~(m) For facilities described in OAR 340-25-468(5) provide the name, title~~



and authority of the State or local government official who ordered the demolition, date the order was issued, and the date demolition is to begin.

~~(n) Any other information requested on the Department form.~~

- ~~(4) No project notification fee shall be assessed for asbestos abatement projects conducted in the following residential buildings: site built homes, modular homes constructed off site, condominium units, mobile homes, and duplexes or other multi unit residential buildings consisting of four units or less. Project notification for a full scale asbestos abatement project, as defined in OAR 340-33-020(14), in any of these residential buildings shall otherwise be in accordance with section (l) of this rule. Project notification for a small-scale asbestos abatement project, as defined in OAR 340-33-020(17), in any of these residential buildings is not required.~~
- ~~(5) The project notification fees specified in this section shall be increased by 50% when an asbestos abatement project is commenced without filing of a project notification and/or submittal of a notification fee or when notification of less than ten days is provided under subsection (1)(c) of this rule.~~
- ~~(6) The Director may waive part or all of a project notification fee. Requests for waiver of fees shall be made in writing to the Director, on a case by case basis, and be based upon financial hardship. Applicants for waivers must describe the reason for the request and certify financial hardship.~~
- ~~(7) Pursuant to ORS 468A.135, a regional authority may adopt project notification fees for asbestos abatement projects in different amounts than are set forth in this rule. The fees shall be based upon the costs of the regional authority in carrying out the delegated asbestos program. The regional authority may collect, retain, and expend such project notification fees for asbestos abatement projects within its jurisdiction.~~

Stat. Auth.: ORS Ch. 468 & 468A-

Hist.: AQ 11 1992, f. & of. 10-7-91; AQ 1 1993, f. & of. 3-9-93][Renumbered to OAR 340-32-5620]

## Work Practices and Procedures

~~340-25-468 [The following procedures shall be employed during an asbestos abatement project to prevent emissions of particulate asbestos material into the ambient air:~~

- ~~(1) Remove asbestos containing materials before any wrecking or dismantling that would break up the materials or preclude access to the materials for subsequent removal. However, asbestos containing materials need not be removed before demolition if:~~
- ~~(a) They are on a facility component that is encased in concrete or other similar material;~~
- ~~(b) They were not discovered before demolition and cannot be removed because of unsafe conditions as a result of the demolition. Upon discovery the owner or operator performing the demolition shall:~~
- ~~(A) Stop demolition work immediately.~~
- ~~(B) Notify the Department immediately of the occurrence.~~
- ~~(C) Keep the exposed asbestos containing materials and any asbestos contaminated waste material adequately wet at all~~

- ~~times until a licensed asbestos abatement contractor begins removal activities.~~
- ~~(D) Have the licensed asbestos abatement contractor remove and dispose of the asbestos containing waste material.~~
- ~~(e) These materials are adequately wetted whenever exposed during demolition.~~
- ~~(2) Asbestos containing materials shall be adequately wetted when they are being removed. In renovation, maintenance, repair, and construction operations, where wetting would unavoidably damage equipment or is incompatible with specialized work practices, or presents a safety hazard, adequate wetting is not required if the owner or operator:~~
- ~~(a) Obtains prior written approval from the Department for dry removal of asbestos containing material;~~
- ~~(b) Keeps a copy of the Department's written approval available for inspection at the work site;~~
- ~~(c) Adequately wraps or encloses any asbestos containing material during handling to avoid releasing fibers;~~
- ~~(d) Uses a local exhaust ventilation and collection system designed and operated to capture the particulate asbestos material produced by the asbestos abatement project.~~
- ~~(3) When a facility component covered or coated with asbestos containing materials is being taken out of the facility as units or in sections:~~
- ~~(a) Adequately wet any asbestos containing materials exposed during cutting or disjoining operation;~~
- ~~(b) Carefully lower the units or sections to ground level, not dropping them or throwing them;~~
- ~~(c) Asbestos containing materials do not need to be removed from large facility components such as reactor vessels, large tanks, steam generators, but excluding beams if the following requirements are met:~~
- ~~(A) The component is removed, transported, stored, disposed of, or reused without disturbing or damaging the regulated asbestos-containing material; and~~
- ~~(B) The component is encased in leak tight wrapping; and~~
- ~~(C) The leak tight wrapping is labeled according to OAR 340-25-469(2)(b) during all loading and unloading operations and during storage.~~
- ~~(4) For asbestos containing materials being removed or stripped:~~
- ~~(a) Adequately wet the materials to ensure that they remain wet until they are disposed of in accordance with OAR 340-25-469;~~
- ~~(b) Carefully lower the materials to the floor, not dropping or throwing them;~~
- ~~(c) Transport the materials to the ground via dust tight chutes or containers if they have been removed or stripped above ground level and were not removed as units or in sections.~~
- ~~(5) If a facility is being demolished under an order of the State or a local governmental agency, issued because the facility is structurally unsound and in danger of imminent collapse, the requirements of section (1), (2), (3), (4), and (6) of this rule shall not apply, provided that the portion of the facility that contains asbestos containing materials is adequately wetted during the~~

wrecking operation.

- ~~(6) Before a facility is demolished by intentional burning, all asbestos-containing material shall be removed and disposed of in accordance with OAR 340-25-466 through 469.~~
- ~~(7) None of the operations in sections (1) through (4) of this rule shall cause any visible emissions. Any local exhaust ventilation and collection system or other vacuuming equipment used during an asbestos abatement project, shall be equipped with a HEPA filter or other filter of equal or greater collection efficiency.~~
- ~~(8) Contractors licensed and workers certified to conduct only small scale asbestos abatement projects under OAR 340-33-040 and 340-33-050 respectively may use only those work practices and engineering controls specified by OAR 437 Division 3 "Construction" (29 CFR 1926.58 Appendix G).~~
- ~~(9) The Director may approve, on a case by case basis, requests to use an alternative to a public health protection requirement as provided by this rule for an asbestos abatement project. The contractor or facility owner or operator must submit in advance a written description of the alternative procedure which demonstrates to the Director's satisfaction that the proposed alternative procedure provides public health protection equivalent to the protection that would be provided by the specific provision, or that such level of protection cannot be obtained for the asbestos abatement project.~~
- ~~(10) Final Air Clearance Sampling Requirements apply to projects involving more than 160 square feet or 260 linear feet of asbestos-containing material. Before a containment around such an area is removed, the person(s), contractor or facility owner/operator performing the abatement shall document that the air inside the containment has no more than 0.01 fibers per cubic centimeter of air. The air sample(s) collected shall not exceed 0.01 fibers per cubic centimeter of air. The Department may grant a waiver to this section or exceptions to the following requirements upon written request.
  - ~~(a) The air clearance samples shall be performed and analyzed by a party who is National Institute of Occupational Safety and Health (NIOSH) 582-certified and financially independent from the person(s) conducting the asbestos abatement project.~~
  - ~~(b) Before final air clearance sampling is performed the following shall be completed:
    - ~~(A) All visible asbestos containing debris shall be removed according to the requirements of this section;~~
    - ~~(B) The air and surfaces within the containment shall be sprayed with an encapsulant;~~
    - ~~(C) Air sampling may commence when the encapsulant has settled sufficiently so that the filter of the sample is not clogged by airborne encapsulant;~~
    - ~~(D) Air filtration units shall remain on during the air monitoring period.~~~~
  - ~~(c) Air clearance sampling inside containment areas shall be aggressive and comply with the following procedures:
    - ~~(A) Immediately prior to starting the sampling pumps, direct exhaust~~~~~~

~~from a minimum one horse power forced air blower against all walls, ceilings, floors, ledges, and other surfaces in the containment.~~

~~(B) Then place stationary fans in locations which will not interfere with air monitoring equipment and directed toward the ceiling. Use one fan per 10,000 cubic feet of room space.~~

~~(C) Start sampling pumps and sample an adequate volume of air to detect concentrations of 0.01 fibers of asbestos per cubic centimeter according to the U.S. National Institute of Occupational Safety and Health, (NIOSH) 7400 method.~~

~~(D) When sampling is completed turn off the pump and then the fan(s).~~

~~(E) As an alternative to meeting the requirements of (A) through (D) of this subsection, air clearance sample analysis may be performed according to Transmission Electron Microscopy Analytical Methods prescribed by 40 CFR 763.99, Appendix A to Subpart E.~~

~~(d) The person performing asbestos abatement projects requiring air clearance sampling shall submit the clearance results to the Department on a Department form. The clearance results must be received by the Department within 30 days after the completion date of the asbestos abatement project.~~

~~(11) Related Work Practices and Controls Work practices and engineering controls employed for asbestos abatement projects by contractors and/or workers who are not otherwise subject to the requirements of the Oregon Department of Insurance and Finance, Oregon Occupational Safety and Health Division shall comply with the subsections of OAR 437 Division 3 "Construction" (29 CFR 1926.58 Appendix G) which limit the release of asbestos containing material or exposure of other persons. As used in this subsection the term employer shall mean the operator of the asbestos abatement project and the term employee shall mean any other person.~~

~~(12) Spraying:~~

~~(a) No person shall cause to be discharged into the atmosphere any visible emissions from any spray on application of materials containing more than one (1%) percent asbestos on a dry weight basis used to insulate or fireproof equipment or machinery, except as provided in Air Cleaning section (14) of this rule. Spray on materials used to insulate or fireproof buildings, structures, pipes, and conduits shall contain less than one (1%) percent asbestos on a dry weight basis. In the case of any city or area of local jurisdiction having ordinances or regulations for spray application materials more stringent than those in this section, the provisions of such ordinances or regulations shall apply.~~

~~(b) Twenty days before any person sprays asbestos materials to insulate or fireproof buildings, structures, pipes, conduits, equipment, or machinery, that person shall notify the Department in writing before the spraying operation begins. The notification shall contain the following:~~

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

~~(B) Address or location of the spraying operation.~~

- ~~(C) The name and address of the owner of the facility being sprayed.~~
- ~~(c) The spray on application of materials in which the asbestos fibers are encapsulated with a bituminous or resinous binder during spraying and which are not friable after drying is exempted from the requirements of subsections (8)(a) and (b) of this rule.~~
- ~~(13) Options for air cleaning. Rather than meet the no visible emissions requirements of OAR 340-25-465(1) and (3), owners and operators may elect to use methods specified in section (14) of this rule.~~
- ~~(14) Air cleaning. All persons electing to use air cleaning methods rather than comply with the no visible emission requirements must meet one of the provisions of (a) through (d) and all of the requirements specified sections (e), (f) and (g) below:~~
- ~~(a) Fabric filter collection devices must be used, except as provided in subsections (b) and (c) of this section. Such devices must be operated at a pressure drop of no more than four inches (10.16 cm) water gauge as measured across the filter fabric. The air flow permeability, as determined by ASTM Method D737-75, must not exceed 30 ft.<sup>3</sup>/min./ft.<sup>2</sup> (9 m<sup>3</sup>/min./m<sup>2</sup>) for woven fabrics or 35 ft.<sup>3</sup>/min./ft.<sup>2</sup> (11 m<sup>3</sup>/min./m<sup>2</sup>) for felted fabrics with the exception that airflow permeability of 40 ft.<sup>3</sup>/min./ft.<sup>2</sup> (12 m<sup>3</sup>/min./m<sup>2</sup>) for woven and 45 ft.<sup>3</sup>/min./ft.<sup>2</sup> (14 m<sup>3</sup>/min./m<sup>2</sup>) for felted fabrics shall be allowed for filtering air emissions from asbestos ore dryers. Each square yard of felted fabric must weigh at least 14 ounces (475 grams per square meter) and be at least one sixteenth (1/16) inch (1.6mm) thick throughout. Any synthetic fabrics used must not contain fill yarn other than that which is spun.~~
- ~~(b) If the use of fabric filters creates a fire or explosion hazard, the Department may authorize the use of wet collectors designed to operate with a unit contacting energy of at least 40 inches (101.6 cm) of water gauge pressure.~~
- ~~(c) If High Efficiency Particulate Air (HEPA) filters are used to control emissions the certified efficiency shall be at least 99.97 percent for particles 0.3 microns or greater.~~
- ~~(d) The Department may authorize the use of filtering equipment other than that described in subsections (14)(a), (b), or (c) of this rule if such filtering equipment is satisfactorily demonstrated to provide filtering of asbestos material equivalent to that of the described equipment.~~
- ~~(e) All air cleaning devices authorized by this section must be properly installed, operated, and maintained. Devices to bypass the air cleaning equipment may be used only during upset and emergency conditions, and then only for such time as is necessary to shut down the operation generating the particulate asbestos material.~~
- ~~(f) For fabric filters collection devices installed after January 10, 1989, provide for easy inspection for faulty bags.~~
- ~~(15) Fabricating. No person shall cause to be discharged into the atmosphere any visible emissions including fugitive emissions, except as provided in Air Cleaning section (14) of this rule, from any fabricating operations including the following:~~
- ~~(a) Applicability. This section applies to the following fabricating~~

~~operations using commercial asbestos:~~

- ~~(A) The fabrication of cement building products.~~
  - ~~(B) The fabrication of friction products, except those operations that primarily install asbestos friction materials on motor vehicles.~~
  - ~~(C) The fabrication of cement or silicate board for ventilation hoods; ovens; electrical panels; laboratory furniture; bulkheads, partitions and ceilings for marine construction; and flow control devices for the molten metal industry.~~
- ~~(b) Monitor each potential source of asbestos emissions from any part of the fabricating facility, including air cleaning devices, process equipment for material processing and handling, at least once each day, during daylight hours, for visible emissions to the outside air during periods of operation. The monitoring shall be by visual observation of at least 15 seconds duration per source of emissions.~~
  - ~~(c) Inspect each air cleaning device at least once each week for proper operation and for changes that signal the potential for malfunctions, including to the maximum extent possible without dismantling other than opening the device, the presence of tears, holes, and abrasions in filter bags and for dust deposits on the clean side of bags. For air cleaning devices that cannot be inspected on a weekly basis according to this paragraph, submit to the Department, revise as necessary, and implement a written maintenance plan to include, at a minimum, the following:
    - ~~(A) Maintenance schedule.~~
    - ~~(B) Recordkeeping plan.~~~~
  - ~~(d) Maintain records of the results of visible emission monitoring and air cleaning device inspections using a format approved by the Department which includes the following:
    - ~~(A) Date and time of each inspection~~
    - ~~(B) Presence or absence of visible emissions.~~
    - ~~(C) Condition of fabric filters, including presence of any tears, holes, and abrasions.~~
    - ~~(D) Presence of dust deposits on clean side of fabric filters.~~
    - ~~(E) Brief description of corrective actions taken, including date and time.~~
    - ~~(F) Daily hours of operation for each air cleaning device.~~~~
  - ~~(e) Furnish upon request and make available at the affected facility during normal business hours for inspection by the Department, all records required under this section.~~
  - ~~(f) Retain a copy of all monitoring and inspection records for at least two years.~~
  - ~~(g) Submit a copy of the visible emission monitoring records to the Department quarterly. The quarterly report shall be postmarked by the 30th day following the end of the calendar quarter.~~
- ~~(16) Insulation: Molded insulating materials which are friable and wet applied insulating materials which are friable after drying, installed after October 21, 1982, shall contain no commercial asbestos. The provisions of this section do not apply to insulating materials which are spray applied; such materials are regulated under section (12) of this rule.~~

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

~~Stat. Auth.: ORS Ch. 468 & 468A-~~

~~Hist.: AQ 11-1992, f. & ef. 10-7-91; AQ-1 1993, f. & ef. 3-9-93}~~ **[Renumbered to OAR 340-32-5630]**

## **Asbestos Disposal Requirements**

~~340-25-469 [Work practices and procedures for packaging, storage, transport, and disposal of asbestos containing waste material: The owner or operator of any source covered under the provisions of OAR 340-25-465(3), 340-25-466(1), or 340-25-468(12) and (15) of this rule or any other source of friable asbestos containing waste material shall meet the following standards:~~

- ~~(1) There shall be no visible emissions to the atmosphere, except as provided in section (12) of this section, during the collection; processing, including incineration; packaging; transporting; or deposition of any asbestos containing waste material which is generated by such source.~~
- ~~(2) All asbestos containing waste materials shall be adequately wetted to ensure that they remain wet until disposed of, then:
  - ~~(a) Processed into nonfriable pellets or other shapes; or~~
  - ~~(b) Packaged in leak tight containers such as two plastic bags each with a minimum thickness of 6 mill., or fiber or metal drum. Containers are to be labeled as follows:
    - ~~(A) The name of the waste generator and the location at which the waste was generated; and~~
    - ~~(B) A warning label that states:~~~~~~

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

~~Alternatively, warning labels specified by 29 CFR 1910.1001 (7/1/88) may be used.~~

- ~~(e) Where the asbestos containing materials are not removed from a facility prior to demolition as described in OAR 340-25-468(15), adequately wet asbestos containing waste material at all times after demolition and keep wet during handling and loading for transport to a disposal site. Such asbestos containing waste materials, shall be transported in lined and covered containers for bulk disposal.~~
- ~~(4) The interim storage of asbestos containing waste material shall protect the waste from dispersal into the environment and provide physical security from tampering by unauthorized persons. The interim storage of asbestos containing waste material is the sole responsibility of the contractor, owner or operator performing the asbestos abatement project.~~
- ~~(5) All asbestos containing waste material shall be deposited as soon as possible by the waste generator at:~~

- ~~(a) A waste disposal site authorized by the Department and operated in accordance with the provisions of this rule; or~~
- ~~(b) A Department approved site that converts asbestos containing waste material into nonasbestos (asbestos free) material according to the provisions of 40 CFR 61.155 Standard for Operations that convert asbestos containing waste material into nonasbestos (asbestos free) material.~~
- ~~(6) Persons disposing of asbestos containing waste material shall notify the landfill operator of the type and volume of the waste material and obtain the approval of the landfill operator prior to bringing the waste to the disposal site.~~
- ~~(7) For each waste shipment the following information shall be recorded on a Department form:
  - ~~(a) Waste Generation
    - ~~(A) The name, address, and telephone number of the waste generator.~~
    - ~~(B) The number and type of asbestos containing waste material containers and volume in cubic yards.~~
    - ~~(C) A certification that the contents of this consignment are carefully and accurately described by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highways according to applicable regulations.~~~~
  - ~~(b) Waste Transportation
    - ~~(A) The date transported.~~
    - ~~(B) The name, address, and telephone number of the transporter(s).~~~~
  - ~~(c) Waste Disposal
    - ~~(A) The name and telephone number of the disposal site operator.~~
    - ~~(B) The name and address or location of the waste disposal site.~~
    - ~~(C) The quantity of the asbestos containing waste material in cubic yards.~~
    - ~~(D) The presence of improperly enclosed or uncovered waste, or any asbestos containing waste material not sealed in leak tight containers.~~
    - ~~(E) The date asbestos containing waste is received at disposal site.~~~~~~
- ~~(8) For the transportation of asbestos containing waste material:
  - ~~(a) The waste generator shall:
    - ~~(A) Maintain the waste shipment records and ensure that all the information requested on the Department form regarding waste generation and transportation has been supplied.~~
    - ~~(B) Limit access into loading and unloading area to authorized personnel.~~
    - ~~(C) Mark vehicles, while loading and unloading asbestos containing waste, with signs (20 in. x 14 in.) that state:~~~~~~

**DANGER**  
**ASBESTOS DUST HAZARD**  
**CANCER AND LUNG DISEASE HAZARD**  
**Authorized Personnel Only**



~~Alternatively, language that conforms to the requirements of 29 CFR 1910.1001 (7/1/88) may be used.~~

- ~~(b) The waste transporter shall:
  - ~~(A) Immediately notify the landfill operator upon arrival of the waste at the disposal site.~~
  - ~~(B) Provide a copy of the waste shipment record to the disposal site owners or operators when the asbestos containing waste material is delivered to the disposal site.~~~~
- ~~(9) After initial transport of asbestos containing waste material the waste generator shall:
  - ~~(a) Receive a copy of the completed waste shipment record within 35 days, or determine the status of the waste shipment. A completed waste shipment record will include the signature of the owner or operator of the designated disposal site.~~
  - ~~(b) Have a copy of the completed waste shipment record within 45 days, or submit to the Department a written report including:
    - ~~(A) A copy of the waste shipment record for which a confirmation of delivery was not received; and~~
    - ~~(B) A cover letter signed by the waste generator explaining the efforts taken to locate the asbestos waste shipment and the results of these efforts.~~~~
  - ~~(c) Keep waste shipment records, including a copy signed by the owner or operator of the designated waste disposal site, for at least three years. Make all disposal records available upon request to the Department. For an asbestos abatement project conducted by a contractor licensed under OAR 340-33-040, the records shall be retained by the licensed contractor. For any other asbestos abatement project, the records shall be retained by the facility owner.~~~~
- ~~(10) Each owner or operator of an active asbestos containing waste disposal site shall meet the following standards:
  - ~~(a) For all asbestos containing waste material received:
    - ~~(A) Ensure that off loading of asbestos containing waste material is done under the direction and supervision of the landfill operator or their authorized agent and accomplished in a manner that prevents the leak tight transfer containers from rupturing and prevents visible emissions to the air.~~
    - ~~(B) Ensure that off loading of asbestos containing waste material occurs at the immediate location where the waste is to be buried and restrict public access to off loading area until waste is covered in accordance with (1), below.~~
    - ~~(C) Maintain waste shipment records and ensure that all information requested on the Department form regarding waste disposal has been supplied.~~
    - ~~(D) Retain a copy of waste shipment records for at least three years.~~
    - ~~(E) Immediately notify the Department by telephone, followed by a written report to the Department the following working day, of the presence of improperly enclosed or uncovered waste. Submit a copy of the waste shipment record along with the report.~~~~~~

- ~~(F) As soon as possible and no longer than 30 days after receipt of the waste send a copy of the signed waste shipment record to the waste generator.~~
- ~~(G) Upon discovering a discrepancy between the quantity of waste designated on the waste shipment records and the quantity actually received, attempt to reconcile the discrepancy with the waste generator. Report in writing to the Department within the 15th day after receiving the waste any discrepancy between the quantity of waste designated on the waste shipment records and the quantity actually received which cannot be reconciled between the waste generator and the waste disposal site. Describe the discrepancy and attempts to reconcile it, and submit a copy of the waste shipment record along with the report. Identify the Department assigned asbestos project number in the discrepancy report.~~
- ~~(H) Select the waste burial site in an area of minimal work activity that is not subject to future excavation.~~
- ~~(I) Cover all asbestos containing waste material deposited at the disposal site with at least 12 inches of soil or six inches of soil plus 12 inches of other waste before compacting equipment runs over it but not later than the end of the operating day.~~
- ~~(b) Maintain, until closure, record of the location, depth and area, and quantity in cubic yards of asbestos containing waste material within the disposal site on a map or diagram of the disposal area.~~
- ~~(e) Excavation or disturbance of asbestos containing waste material, that has been deposited at a waste disposal site and is covered, shall be considered an asbestos abatement project. The notification for any such project shall be submitted as specified in OAR 340-25-467 but modified as follows:
 
  - ~~(A) Submit the project notification and project notification fee to the Department at least 45 days before beginning any excavation or disturbance of asbestos containing waste disposal site.~~
  - ~~(B) Reason for disturbing the waste.~~
  - ~~(C) Procedures to be used to control emissions during the excavation, storage, transport and ultimate disposal of the excavated asbestos containing waste material. If deemed necessary, the Department may require changes in the emission control procedures to be used.~~
  - ~~(D) Location of any temporary storage site and the final disposal site.~~~~
- ~~(d) Upon closure of an active asbestos containing waste disposal site each owner or operator shall:
 
  - ~~(A) Comply with all the provisions for inactive asbestos containing waste disposal sites.~~
  - ~~(B) Submit to the department a copy of records of asbestos waste disposal locations and quantities.~~
  - ~~(C) Furnish upon request, and make available during normal business hours for inspection by the Department, all records required under this section.~~~~
- ~~(11) The owner or operator of an inactive asbestos containing waste disposal site~~

~~shall meet the following standards:~~

- ~~(a) Insure that a cover of at least two feet of soil or one foot of soil plus one foot of other waste be maintained.~~
- ~~(b) Grow and maintain a cover of vegetation on the area to prevent erosion of the non asbestos containing cover of soil or other waste materials or in desert areas where vegetation would be difficult to maintain, a layer of at least three inches of well graded, nonasbestos crushed rock may be placed and maintained on top of the final cover instead of vegetation.~~
- ~~(c) For inactive waste disposal sites for asbestos containing tailings, a resinous or petroleum based dust suppression agent that effectively binds dust to control surface air emissions may be used and maintained to achieve the requirements of (a) and (b) of this section, provided prior written approval of the Department is obtained.~~
- ~~(d) Excavation or disturbance at any inactive asbestos containing waste disposal site shall be considered an asbestos abatement project. The notification for any such project shall be submitted as specified in OAR 340-25-467, but modified as follows:
  - ~~(A) Submit the project notification and project notification fee to the Department at least 45 days before beginning any excavation or disturbance of asbestos containing waste disposal site.~~
  - ~~(B) Reason for disturbing the waste.~~
  - ~~(C) Procedures to be used to control emissions during the excavation, storage, transport and ultimate disposal of the excavated asbestos containing waste material. If deemed necessary, the Department may require changes in the emission control procedures to be used.~~
  - ~~(D) Location of any temporary storage site and the final disposal site.~~~~
- ~~(e) Within 60 days of a site becoming inactive, request in writing that the Commission issue an environmental hazard notice for the site. This environmental hazard notice will in perpetuity notify any potential purchaser of the property that:
  - ~~(A) The land has been used for the disposal of asbestos containing waste material; and~~
  - ~~(B) That the survey plot and record of the location and quantity of asbestos containing waste disposed of within the disposal site required for active asbestos disposal sites have been filed with the Department; and~~
  - ~~(C) The site is subject to OAR 340-25-465 through OAR 340-25-469.~~~~
- ~~(12) Any waste which contains nonfriable asbestos containing material not subject to this rule shall be handled and disposed of using methods that will prevent the release of airborne asbestos containing material.~~
- ~~(13) Rather than meet the requirements of this rule, an owner or operator may elect to use an alternative storage, transport, or disposal method which has received prior written approval by the Department.~~

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

## Emission Standard for Beryllium

### 340-25-470

- ~~{(1) Applicability. The provisions of this rule are applicable to the following emission sources of beryllium:~~
- ~~(a) Extraction plants, ceramic plants, foundries, incinerators, and propellant plants which process beryllium, beryllium ore, oxides, alloys, or beryllium containing waste;~~
  - ~~(b) Machine shops which process beryllium, beryllium oxides, or any alloy when such alloy contains more than five percent (5%) beryllium by weight;~~
  - ~~(c) Other sources, the operation of which results or may result in the emission of beryllium to the outside air.~~
- ~~{(2) Emission limit:~~
- ~~(a) No person shall cause to be discharged into the atmosphere emissions from any source exceeding 10 grams of beryllium for any 24 hour period;~~
  - ~~(b) The burning of beryllium and/or beryllium containing waste except propellants is prohibited except in incinerators, emissions from which must comply with the standard;~~
  - ~~(c) Stack sampling:
    - ~~(A) Unless a deferral of emission testing is obtained under the provisions of OAR 340-25-460(6)(c), each person operating a source subject to this rule shall test emissions from the source subject to the following schedule:
      - ~~(i) By December 24, 1975 for existing sources or for new sources having startup dates prior to September 25, 1975;~~
      - ~~(ii) Within ninety (90) days of startup in the case of a new source having a startup date after September 25, 1975.~~~~
    - ~~(B) The Department shall be notified at least thirty (30) days prior to an emission test so that they may, at their option, observe the test;~~
    - ~~(C) Samples shall be taken over such periods and frequencies as necessary to determine the maximum emissions occurring during any 24 hour period. Calculations of maximum 24 hour emissions shall be based on that combination of process operating hours and any variation in capacities or processes that will result in maximum emissions. No changes in operation which may be expected to increase total emissions over those determined by the most recent stack test shall be made until estimates of the increased emissions have been calculated, and have been reported to and approved in writing by the Department;~~
    - ~~(D) All samples shall be analyzed and beryllium emissions shall be determined and reported to the Department within thirty (30) days following the stack test. Records of emission test results~~~~

~~and other data needed to determine beryllium emissions shall be retained at the source and made available for inspection by the Department for a minimum of two (2) years following such determination.~~

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Hist.: DEQ 96, f. 9-2-75, of. 9-25-75; DEQ 22-1982, f. & of. 10-21-82; AQ 1-1993, f. & of. 3-9-93]~~  
**[Renumbered to OAR 340-32-5540]**

### **Emission Standard for Beryllium Rocket Motor Firing**

~~340-25-475 [The emission standard for Beryllium Rocket Motor Firing, 40 CFR, Part 61, Section 61.40 through 61.44, as last amended on November 7, 1985, is adopted by reference and made a part of OAR 340-25-450 through 340-25-485. A copy of this emission standard is on file at the Department of Environmental Quality.~~

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

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Hist.: DEQ 96, f. 9-2-75, of. 9-25-75; DEQ 22-1982, f. & of. 10-21-82; DEQ 19-1986, f. & of. 11-7-86; AQ 1-1993, f. & of. 3-9-93]~~  
**[Renumbered to OAR 340-32-5540].**

### **Emission Standard for Mercury**

**340-25-480**

- ~~{(1) Applicability. The provisions of this rule are applicable to sources which process mercury ore to recover mercury, sources using mercury chlor-alkali cells to produce chlorine gas and alkali metal hydroxide, and to any other source, the operation of which results or may result in the emission of mercury to the ambient air.~~
- ~~{(2) Emission Standard. No person shall cause to be discharged into the atmosphere emissions from any source exceeding 2,300 grams of mercury during any 24 hour period, except that mercury emissions to the atmosphere from sludge incineration plants, sludge drying plants, or a combination of these that process wastewater treatment plant sludges shall not exceed 3,200 grams of mercury per 24 hour period.~~
- ~~{(3) Stack sampling:
  - ~~{(a) Mercury ore processing facility:
    - ~~{(A) Unless a deferral of emission testing is obtained under OAR 340-25-460(6)(c), each person operating a source processing mercury ore shall test emissions from the source, subject to the following:
      - ~~{(i) By December 24, 1975 for existing sources or for new sources having startup dates prior to September 25, 1975;~~
      - ~~{(ii) Within ninety (90) days of startup in the case of a new source having a startup date after September 25, 1975.~~~~
    - ~~{(B) The Department shall be notified at least thirty (30) days prior to an emission test so that they may, at their option, observe the test;~~~~~~

- ~~(C) Samples shall be taken over such periods and frequencies as necessary to determine the maximum emissions occurring during any 24-hour period. Calculations of maximum 24-hour emissions shall be based on that combination of process operating hours and any variation in capacities or processes that will result in maximum emissions. No changes in operation which may be expected to increase total emissions over those determined by the most recent stack test shall be made until estimates of the increased emissions have been calculated, and have been reported to and approved in writing by the Department;~~
- ~~(D) All samples shall be analyzed and mercury emissions shall be determined and reported to the Department within thirty (30) days following the stack test. Records of emission test results and other data needed to determine mercury emissions shall be retained at the source and made available for inspection by the Department for a minimum of two (2) years following such determination.~~
- ~~(b) Mercury Chlor-alkali plant:~~
- ~~(A) Hydrogen and end box ventilation gas streams. Unless a deferral of emission testing is obtained under OAR 340-25-460(6)(e), each person operating a source of this type shall test emissions from his source following the provisions of subsection (3)(a) of this rule;~~
- ~~(B) Room ventilation system:~~
- ~~(i) Unless a deferral of emission testing is obtained under OAR 340-25-460(6)(e), all persons operating mercury chlor-alkali plants shall pass all cell room air in forced gas streams through stacks suitable for testing;~~
- ~~(ii) Emissions from cell rooms may be tested in accordance with provisions of paragraph (3)(b)(A) of this rule or may demonstrate compliance with subparagraph (3)(b)(B)(iii) of this rule and assume ventilation emissions of 1,300 grams/day of mercury;~~
- ~~(iii) If no deferral of emission testing is requested, each person testing emissions shall follow the provisions of subsection (3)(a) of this rule.~~
- ~~(c) Any person operating a mercury chlor-alkali plant may elect to comply with room ventilation sampling requirements by carrying out approved design, maintenance, and housekeeping practices. A summary of these approved practices shall be available from the Department;~~
- ~~(d) Stack sampling and sludge sampling at wastewater treatment plants shall be performed in accordance with 40 CFR 61.53(d) or 40 CFR 61.54, last amended by Federal Register March 19, 1987, pages 8724 to 8728.~~

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

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Hist.: DEQ 96, f. 9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82; DEQ 19-1986, f. & ef. 11-7-86;~~

~~DEQ 24-1989, f. & cert. of. 10-26-89; AQ 1-1993, f. & ef. 3-9-93~~ **[Renumbered to OAR 340-32-5550]**

## **Work Practice Standard for Radon 222 Emissions from Underground Uranium Mines**

~~340-25-485 [The work practice standard for Radon 222 Emissions from active Underground Uranium Mines, 40 CFR, Part 61, Section 61.20 through 61.28, as published in 50 FR 15392 on April 17, 1985, is adopted by reference and made a part of OAR 340-25-450 through 340-25-485. The standard requires airtight bulkheads to prevent Radon 222 from escaping from abandoned parts of uranium mines that are extracting greater than 10,000 tons of ore per year, or will extract more than 100,000 tons of ore during the life of the mine.]~~

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 19-1986, f. & ef. 11-7-86; AQ 1-1993, f. & ef. 3-9-93] **[Renumbered to OAR 340-32-5530]**

## Standards of Performance for New Stationary Sources

### Statement of Purpose

**340-25-505** The U.S. Environmental Protection Agency has adopted in **Title 40, Code of Federal Regulations, Part 60**, Standards of Performance for certain new stationary sources. It is the intent of OAR 340-25-505 through 340-25-805 to specify requirements and procedures necessary for the Department to implement and enforce the aforementioned Federal Regulation.

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 97, f. 9-2-75, ef. 9-25-75; AQ 1-1993, f. & ef. 3-9-93

### Definitions

- 340-25-510** As used in OAR 340-25-505 through 340-25-805:
- (1) ~~"Administrator" {herein and in Title 40, Code of Federal Regulations, Part 60,} means the {Director of the Department or appropriate regional authority}~~ Administrator of the EPA or authorized representative.
  - (2) "CFR" means Code of Federal Regulations.
  - (3) "Alternative method" means any method of sampling and analyzing for an air pollutant which is not a reference or equivalent method but which has been demonstrated to the Department's satisfaction to, in specific cases, produce results adequate for determination of compliance.
  - ~~{(3) "Federal Regulation" means Title 40, Code of Federal Regulations, Part 60, as promulgated prior to March 29, 1989.}~~
  - (4) "Capital expenditures" means an expenditure for a physical or operational change to an existing facility which exceeds the product of the applicable "annual asset guideline repair allowance percentage" specified in the latest edition of Internal Revenue Service (IRS) Publication 534 and the existing facility's basis, as defined by section 1012 of the Internal Revenue Code. However, the total expenditure for a physical or operational change to an existing facility must not be reduced by any "excluded additions" as defined in IRS Publication 534, as would be done for tax purposes.
  - (5) "Commenced" means, with respect to the definition of "new source" in section 111(a)(2) of the federal Clean Air Act, that an owner or operator has undertaken a continuous program of construction or modification or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.
  - (6) "Construction" means fabrication, erection, or installation of an facility.
  - (7) "Department" means the Department of Environmental Quality or, in the case of Lane County, the Lane Regional Air Pollution Authority.
  - (8) "Environmental Protection Agency" or "EPA" means the United States Environmental Protection Agency.
  - (9) "Equivalent method" means any method of sampling and analyzing for an air



- pollutant which has been demonstrated to the Department's satisfaction to have a consistent and quantitatively known relationship to the reference method, under specified conditions.
- (10) "Existing facility" means, with reference to a stationary source, any apparatus of the type for which a standard is promulgated in 40 CFR Part 60, and the construction or modification of which commenced before the date of proposal by EPA of that standard; or any apparatus which could be altered in such a way as to be of that type.
- (11) "Facility" means all or part of any public or private building, structure, installation, equipment, vehicle or vessel, including, but not limited to, ships.
- (12) "Fixed capital cost" means the capital needed to provide all the depreciable components.
- (13) "Modification" means any physical change in, or change in the method of operation of, an existing facility which increases the amount of any air pollutant (to which a standard applies) emitted into the atmosphere by that facility or which results in the emission of any air pollutant (to which a standard applies) into the atmosphere not previously emitted.
- (14) "Particulate matter" means any finely divided solid or liquid material, other than uncombined water, as measured by an applicable reference method, or an equivalent or alternative method.
- (15) "Reconstruction" means the replacement of components of an existing facility to such an extent that:  
(A) the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable entirely new facility, and  
(B) it is technologically and economically feasible to meet the applicable standards set forth in 40 CFR Part 60.
- (16) "Reference method" means any method of sampling and analyzing for an air pollutant as specified in the Department's Source Sampling Manual, January 1992, the Department's Continuous Monitoring Manual, January 1992, or an applicable subpart of 40 CFR Part 60 (July 1, 1993).
- ~~((4) "Regional authority" means a regional air quality control authority established under provisions of ORS 468A.105.)~~
- (17) "Standard" means a standard of performance proposed or promulgated under 40 CFR Part 60.
- (18) "Stationary source" means any building, structure, facility, or installation that emits or may emit any air pollutant subject to regulation under the federal Clean Air Act.
- (19) "Volatile organic compounds" or "VOC" means any organic compounds that participate in atmospheric photochemical reactions; or that are measured by a reference method, an equivalent method, an alternative method, or that are determined by procedures specified under any applicable rule.

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 97, f. 9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82; DEQ 17-1983, f. & ef. 10-19-83; DEQ 16-1984, f. & ef. 8-21-84; DEQ 15-1985, f. & ef. 10-21-85; DEQ 19-1986, f. & ef. 11-7-86; DEQ 17-1987, f. & ef. 8-24-87; DEQ 24-1989, f. & cert. ef. 10-26-89; AQ 1-1993, f. & ef. 3-9-93

## Statement of Policy

**340-25-515** It is ~~hereby declared~~ the policy of the ~~Department~~**Commission** to consider the performance standards for new stationary sources contained in OAR 340-25-505 through 340-25-805 to be minimum standards; and, as technology advances, conditions warrant, and ~~Department~~**Commission** or regional authority rules require or permit, ~~more stringent standards shall be applied~~**additional rules may be adopted.**

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 97, f. 9-2-75, ef. 9-25-75; AQ 1-1993, f. & ef. 3-9-93

## Delegation

**340-25-520** ~~The Commission may, when any regional authority requests and provides evidence demonstrating its capability to carry out the provisions of OAR 340-25-505 through 340-25-805, authorize and confer jurisdiction upon such regional authority to perform all or any of such provisions within its boundary until such authority and jurisdiction shall be withdrawn for cause by the Commission.~~

**(1) The Lane Regional Air Pollution Authority (LRAPA) is authorized to implement and enforce, within its boundaries, the provisions of OAR 340-25-505 through 340-25-805.**

**(2) The Commission may authorize LRAPA to implement and enforce its own provisions upon a finding that such provisions are at least as stringent as a corresponding provision in OAR 340-25-505 through 340-25-805. LRAPA may implement and enforce provisions authorized by the Commission in place of any or all of OAR 340-25-505 through 340-25-805 upon receipt of delegation from EPA. Delegation may be withdrawn for cause by the Commission.**

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 97, f. 9-2-75, ef. 9-25-75; AQ 1-1993, f. & ef. 3-9-93

## Applicability

**340-25-525** OAR 340-25-505 through 340-25-805 shall be applicable to stationary sources identified in OAR 340-25-550 through 340-25-725 for which construction, reconstruction, or modification has ~~been~~ commenced~~, as defined in Title 40, Code of Federal Regulations (40 CFR) 60.~~

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 97, f. 9-2-75, ef. 9-25-75; DEQ 16-1981, f. & ef. 5-6-81; DEQ 22-1982, f. & ef. 10-21-82; DEQ 17-1983, f. & ef. 10-19-83; DEQ 16-1984, f. & ef. 8-21-84; DEQ 15-1985, f. & ef. 10-21-85; AQ 1-1993, f. & ef. 3-9-93

## General Provisions

### 340-25-530

- ~~(1) Except as provided in section (2) of this rule, [Title 40[,] CFR[,], Part 60, Subpart A[, as promulgated prior to March 29, 1989,] (July 1, 1993) is by this reference adopted and incorporated herein. [Subpart A includes paragraphs 60.1 to 60.18 which address, among other things, definitions, performance tests, monitoring requirements, and modifications.]~~
- (2) Where "Administrator" or "EPA" appears in 40 CFR Part 60, Subpart A, "Department" shall be substituted, except in any section of 40 CFR Part 60 for which a federal rule or delegation specifically indicates that authority will not be delegated to the state.**

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 97, f. 9-2-75, ef. 9-25-75; DEQ 16-1981, f. & ef. 5-6-81; DEQ 22-1982, f. & ef. 10-21-82; DEQ 17-1983, f. & ef. 10-19-83; DEQ 16-1984, f. & ef. 8-21-84; DEQ 15-1985, f. & ef. 10-21-85; DEQ 19-1986, f. & ef. 11-7-86; DEQ 17-1987, f. & ef. 8-24-87; DEQ 24-1989, f. & cert. ef. 10-26-89

## Performance Standards

### Federal Regulations Adopted by Reference

~~340-25-535 [Title 40, CFR, Parts 60.40 through 60.154, and 60.250 through 60.648, and 60.680 through 60.685, as established as final rules prior to March 29, 1989, is by this reference adopted and incorporated herein, with the exception of the December 27, 1985 federal register revision to 40 CFR 60.11(b). As of March 29, 1989, the Federal Regulations adopted by reference set the emission standards for the new stationary source categories set out in OAR 340-25-550 through 340-25-725 (these are summarized for easy screening, but testing conditions, the actual standards, and other details will be found in the Code of Federal Regulations).]~~

- (1) Except as provided in section (2) of this rule, 40 CFR Part 60 Subparts D through XX and BBB through NNN and PPP through VVV (July 1, 1993) are by this reference adopted and incorporated herein, and 40 CFR Part 60 Subpart OOO (July 1, 1993) is by this reference adopted and incorporated herein for major sources only.**
- (2) Where "Administrator" or "EPA" appears in 40 CFR Part 60, "Department" shall be substituted, except in any section of 40 CFR Part 60 for which a federal rule or delegation specifically indicates that authority will not be delegated to the state.**
- (3) Where a discrepancy is determined to exist between OAR 340-25-505 through 340-25-805 and 40 CFR Part 60, 40 CFR Part 60 shall apply.**

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 97, f. 9-2-75, ef. 9-25-75; DEQ 16-1981, f. & ef. 5-6-81; sections (1) thru (12) of this rule renumbered to 340-25-550 thru 340-25-605; DEQ 22-1982, f. & ef. 10-21-82; DEQ 17-1983, f. & ef. 10-19-83; DEQ 16-1984, f. & ef. 8-21-84; DEQ 15-1985, f. & ef. 10-21-85; DEQ 19-1986, f. & ef. 11-7-86; DEQ 17-1987, f. & ef. 8-24-87; DEQ 24-1989, f. & cert. ef. 10-26-89

340-25-540 [Renumbered to 340-25-700]

340-25-545 [Renumbered to 340-25-705]

### Standards of Performance for Fossil Fuel-Fired Steam Generators for Which Construction Is Commenced After August 17, 1971

~~340-25-550 [The pertinent federal rules are 40 CFR 60.40 to 60.46, also known as Subpart D. The following emission standards, summarizing the federal standards set forth in Subpart D, apply to each fossil fuel fired and to each combination wood residue fossil fuel fired steam generating unit of more than 73 megawatts (250 million BTU/hr) heat input:~~

~~(1) Standards for Particulate Matter. No owner or operator subject to the provision of this rule shall cause to be discharged into the atmosphere from any affected facility any gases which:~~

~~(a) Contain particulate matter in excess of 43 nanograms per joule heat input (0.10 lb. per million BTU) derived from fossil fuel or fossil fuel and wood residue;~~

~~(b) Exhibit greater than 20 percent opacity except for one six minute period per hour of not more than 27 percent opacity.~~

~~(2) Standards for Sulfur Dioxide. No owner or operator subject to the provisions of this rule shall cause to be discharged into the atmosphere from any affected facility any gases which contain sulfur dioxide in excess of:~~

~~(a) 340 nanograms per joule heat input (0.80 lb. per million BTU) derived from liquid fossil fuel or liquid fossil fuel and wood residue;~~

~~(b) 520 nanograms per joule heat input (1.2 lb. per million BTU) derived from solid fossil fuel or solid fossil fuel and wood residue;~~

~~(c) When different fossil fuels are burned simultaneously in any combination, the applicable standard shall be determined by proration using the following formula:~~

$$SO_2 = \frac{y(340) + z(520)}{y + z}$$

~~where:~~

~~(A) y is the percentage of total heat input derived from liquid fossil fuel; and~~

~~(B) z is the percentage of total heat input derived from solid fossil fuel; and~~

~~(C)  $SO_2$  is the prorated standard for sulfur dioxide when burning different fuels simultaneously, in nanograms per joule heat input derived from all fossil fuels and wood residue fired.~~

~~(d) Compliance shall be based on the total heat input from all fossil burned, including gaseous fuels.~~

~~(3) Standards for Nitrogen Oxides. No owner or operator subject to the provisions of this rule shall cause to be discharged into the atmosphere from any affected facility any gases which contain nitrogen oxides, expressed as  $NO_2$  in excess of:~~

~~(a) 86 nanograms per joule heat input (0.20 lb. per million BTU) derived~~

- from gaseous fossil fuel;
- ~~(b) 129 nanograms per joule heat input (0.30 lb. per million BTU) derived from liquid fossil fuel and wood residue, or gaseous fossil fuel and wood residue;~~
- ~~(c) 300 nanograms per joule heat input (0.70 lb. per million BTU) derived from solid fossil fuel or solid fossil fuel and wood residue (except lignite or a solid fossil fuel containing 25 percent, by weight, or more of coal refuse);~~
- ~~(d) When different fossil fuels are burned simultaneously in any combination the applicable standard shall be determined by proration using the following formula:~~

~~PNO<sub>x</sub> =~~

$$\frac{w(260) + x(86) + y(130) + z(300)}{w + x + y + z}$$

- ~~(A) PNO<sub>x</sub> is the prorated standard for nitrogen oxides when burning different fuels simultaneously, in nanograms per joule heat input derived from all fossil fuels and wood residue fired; and~~
- ~~(B) w is the percentage of total heat input derived from lignite; and~~
- ~~(C) x is the percentage of total heat input derived from gaseous fossil fuel; and~~
- ~~(D) y is the percentage of total heat input derived from liquid fossil fuel; and~~
- ~~(E) z is the percentage of total heat input derived from solid fossil fuel (except lignite).~~
- ~~(e) When a fossil fuel containing at least 25 percent, by weight, of coal refuse is burned in combination with gaseous, liquid, or other solid fossil fuel or wood residue, section (3) of this rule does not apply;~~
- ~~(f) This rule does not apply to Electric Utility Steam Generating Units for which construction is commenced after September 18, 1978. These units must comply with more stringent OAR 340-25-610.~~

**(1) Applicability.**

- (a) Except as provided in subsections (b) and (c) of this section and section (3) of this rule, this rule applies to the following steam generating units for which construction or modification commenced after August 17, 1971:**
  - (A) each fossil-fuel-fired steam generating unit of more than 250 million Btu per hour; and**
  - (B) each fossil-fuel and wood-residue-fired steam generating unit capable of firing fossil fuel at a heat input rate of more than 250 million Btu per hour.**
- (b) A lignite-fired steam generating unit for which construction or modification commenced on or before December 22, 1976, is not subject to 40 CFR sections 60.44(a)(4), 60.44(a)(5), 60.44(b), 60.44(d) and 60.45(f)(4)(vi).**
- (c) A steam generating unit subject to OAR 340-25-610 is not subject to this rule.**

- (2) Requirements. Steam generating units subject to this rule shall comply with 40 CFR Part 60, Subpart D, as adopted under OAR 340-25-535.
- (3) Special provisions. Any change to an existing fossil-fuel-fired steam generating unit to accommodate the use of combustible materials other than fossil fuels shall not subject the steam generating unit to this rule.
- (4) Definitions. As used in this rule:
- (a) "Fossil fuel" means natural gas, petroleum, coal, and any form of solid, liquid, or gaseous fuel derived from such materials for the purpose of creating useful heat.
- (b) "Steam generating unit" means a furnace or boiler used in the process of burning fossil fuel or wood residue for the purpose of producing steam by heat transfer.
- (c) "Wood residue" means bark, sawdust, slabs, chips, shavings, mill trim, and other wood products derived from wood processing and forest management operations.

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 97, f. 9-2-75, ef. 9-25-75; DEQ 16-1981, f. & ef. 5-6-81; Renumbered from 340-25-535(1); DEQ 17-1987, f. & ef. 8-24-87; AQ 1-1993, f. & ef. 3-9-93

## Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units

~~340-25-553~~ [The pertinent federal rules are ~~40 CFR 60.40b to 60.49b~~, also known as ~~Subpart bf~~. The following emission standards, summarizing the federal standard set forth in ~~Subpart bf~~, apply to each steam generating unit of more than 29 MW (100 million BTU/hr) heat input capacity, which commenced construction, modification, or reconstruction after June 19, 1984:

- (1) ~~Standards for Particulate Matter. No owner or operator subject to the provisions of this rule shall cause to be discharged into the atmosphere from any affected facility any gases which:~~
- (a) ~~Contain particulate matter in excess of 22 to 86 nanograms per joule (0.05 to 0.20 lb/million BTU) heat input from firing the fuels as specified in 40 CFR 60.43b;~~
- (b) ~~Exhibit opacity greater than 20 percent (6 minute average), except for one 6 minute period per hour of not more than 27 percent opacity.~~
- (2) ~~Standards for Nitrogen Oxides. No owner or operator subject to the provisions of this rule shall cause to be discharged into the atmosphere from any affected facility any gases which contain nitrogen oxides in excess of 43 to 340 nanograms per joule (0.10 to 0.80 lb/million BTU) heat input, as specified in the table in 40 CFR 60.44b(a).~~
- (3) ~~Standards for Sulfur Dioxide. No owner or operator subject to the provisions of this rule shall cause to be discharged into the atmosphere from any affected facility any gases which contain sulfur dioxide in excess of the amounts specified in 40 CFR 60.42b.~~

- ~~(a) 10 to 50 percent of the potential sulfur dioxide emission rate;~~
- ~~(b) 520 nanograms per joule (1.2 lb/million BTU) of heat input;~~
- ~~(c) Amount determined according to the formula in 40 CF 60.42b.]~~

**(1) Applicability**

- (a) Except as provided in subsection (b) of this section and section (3) of this rule, this rule applies to each steam generating unit that commences construction, modification, or reconstruction after June 19, 1984, and that has a heat input capacity from fuels combusted in the steam generating unit of greater than 100 million Btu/hour.**
- (b) A steam generating unit subject to OAR 340-25-610, Standards of Performance for Electric Steam Generating Units, is not subject to this rule.**

**(2) Requirements.**

- (a) Steam generating units subject to this rule for which construction, modification, or reconstruction commenced on or before June 19, 1986 shall comply with 40 CFR 60.40b(b).**
- (b) Steam generating units subject to this rule for which construction, modification, or reconstruction commenced after June 19, 1986 shall comply with 40 CFR Part 60, Subpart Db, as adopted under OAR 340-25-535.**

**(3) Special provisions.**

- (a) A steam generating unit subject to this rule and to OAR 340-25-580, Standards of Performance for Petroleum Refineries, shall comply with particulate matter and nitrogen oxide standards under 40 CFR Part 60, Subpart Db and the sulfur dioxide standard under 40 CFR Part 60, Subpart J.**
- (b) A steam generating unit subject to this rule and to OAR 340-25-555, Standards of Performance for Incinerators, shall comply with nitrogen oxide and particulate matter standards under 40 CFR Part 60, Subpart Db.**
- (c) Any change to an existing steam generating unit for the sole purpose of combusting gases containing TRS as defined in OAR 340-25-630 is not considered a modification and the steam generating unit is not subject to this rule.**

**(4) Definitions. As used in this rule:**

- (a) "Heat input" means heat derived from combustion of fuel in a steam generating unit and does not include the heat derived from preheated combustion air, recirculated flue gases, or exhaust gases from other sources (such as stationary gas turbines, internal combustion engines, and kilns).**
- (b) "Heat transfer medium" means any material that is used to transfer heat from one point to another point.**
- (c) "Process heater" means the device that is primarily used to heat a material to initiate or promote a chemical reaction in which the material participates as a reactant or catalyst.**
- (d) "Steam generating unit" means a device that combusts any fuel or by-product/waste to produce steam or to heat water or any other heat transfer medium. This term includes any municipal-type solid waste incinerator with a heat recovery steam generating unit or any steam**

generating unit that combusts fuel and is part of a cogeneration system or a combined cycle system. This term does not include process heaters.

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 17-1987, f. & ef. 8-24-87; DEQ 24-1989, f. & cert. ef. 10-26-89

## Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units

340-25-554

- (1) Applicability. This rule applies to each steam generating unit for which construction, modification, or reconstruction is commenced after June 9, 1989 and that has a maximum design heat input capacity of 100 million Btu per hour (Btu/hr) or less, but greater than or equal to 10 million Btu/hr.
- (2) Requirements. Steam generating units subject to this rule shall comply with 40 CFR Part 60, Subpart Dc, as adopted under OAR 340-25-535.
- (3) Definitions. As used in this rule:
  - (a) "Heat input" means heat derived from combustion of fuel in a steam generating unit and does not include the heat derived from preheated combustion air, recirculated flue gases, or exhaust gases from other sources (such as stationary gas turbines, internal combustion engines, and kilns).
  - (b) "Steam generating unit" means a device that combusts any fuel and produces steam or heats water or any other heat transfer medium. This term includes any duct burner that combusts fuel and is part of a combined cycle system. This term does not include process heaters.

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

Stat. Auth.: ORS Ch. 468 & 468

## Standards of Performance for Incinerators

~~340-25-555 [The pertinent federal rules are 40 CFR 60.50 to 60.54, also known as Subpart E. The following emission standards, summarizing the federal standards set forth in Subpart E, apply to each incinerator whose charging rate is more than 45.36 metric tons (50 tons) per day: Standards for Particulate Matter. No owner or operator subject to the provisions of this rule shall cause to be discharged into the atmosphere any gases which contain particulate matter in excess of 0.18 g/dsem (0.080 gr/dsef) corrected to 12 percent CO<sub>2</sub>.]~~

- (1) Applicability. This rule applies to each incinerator of more than 50 tons per day charging rate, that commences construction or modification after August 17, 1971.
- (2) Requirements. Incinerators subject to this rule shall comply with 40 CFR Part 60, Subpart E, as adopted under OAR 340-25-535.



**(3) Definitions. As used in this rule, "Incinerator" means any furnace used in the process of burning solid waste for the purpose of reducing the volume of the waste by removing combustible matter.**

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 97, f. 9-2-75, ef. 9-25-75; DEQ 16-1981, f. & ef. 5-6-81; Renumbered from 340-25-535(3)

**Standards of Performance for Municipal Waste Combustors**

**340-25-556**

**(1) Applicability:**

- (a) Except as provided in subsections (b) through (d) of this section and section (3) of this rule, this rule applies to each Municipal Waste Combustor with an MWC unit capacity greater than 250 tons per day of MSW or RDF for which construction, modification, or reconstruction is commenced after December 20, 1989.**
- (b) Cofired combustors that are subject to a federally-enforceable permit limiting the operation of the combustor to no more than 250 tons per day of MSW or RDF are not subject to this rule.**
- (c) MWC units combusting solely medical waste are not subject to this rule.**
- (d) Cofired combustors which fire less than 30 percent segregated medical waste and no other municipal solid waste are not subject to this rule.**

**(2) Requirements.**

- (a) Except as provided in subsections (b) and (c) of this section, MWC units subject to this rule shall comply with 40 CFR Part 60, Subpart Ea, as adopted under OAR 340-25-535.**
- (b) An MWC unit combusting tires or fuel derived solely from tires and that combust no other MSW or refuse-derived fuel (RDF) is only subject to the initial reporting in 40 CFR 60.59a(a).**
- (c) Cofired combustors are only subject to the initial reporting in 40 CFR 60.59a(a), and records and reports of the daily weight of MSW or RDF and other fuels fired as required under 40 CFR 60.59a(b)(14) and 40 CFR 60.59a(m).**

**(3) Special provisions. Physical or operational changes made to an existing MWC unit solely to comply with emission guidelines under 40 CFR Part 60, Subpart Ca, are not considered a modification or reconstruction and do not subject an existing MWC unit to this rule.**

**(4) Definitions. As used in this rule:**

- (a) "Cofired combustor" means a unit combusting municipal-type solid waste or refuse-derived fuel with a non MSW fuel and subject to a Federally enforceable permit limiting the unit to combusting a fuel feed stream, 30 percent or less of the weight of which is comprised, in aggregate, of MSW or RDF as measured on a 24-hour daily basis. A unit combusting a fuel feed stream, more than 30 percent of the weight of which is comprised, in aggregate, of MSW or RDF shall be considered an municipal waste combustor unit and not a cofired**

- combustor.
- (b) "Medical waste" means any solid waste which is generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in production or testing of biologicals. Medical waste does not include any hazardous waste identified under subtitle C of the Resource Conservation and Recovery Act or any household waste as defined in regulations under subtitle C of the Resource Conservation and Recovery Act.
- (c) "Municipal-type solid waste" or "MSW" means household, commercial/retail, and/or institutional waste. Household waste includes material discarded by single and multiple residential dwellings, hotels, motels, and other similar permanent or temporary housing establishments or facilities. Commercial/retail waste includes material discarded by stores, offices, restaurants, warehouses, nonmanufacturing activities at industrial facilities and other similar establishments or facilities. Institutional waste includes material discarded by schools and hospitals, and nonmanufacturing activities at prisons and government facilities and other similar establishments or facilities. Household, commercial/retail, and institutional waste do not include sewage, wood pallets, construction and demolition wastes, industrial process or manufacturing wastes, or motor vehicles (including motor vehicle parts or vehicle fluff). Municipal-type solid waste does include motor vehicle maintenance materials, limited to vehicle batteries, used motor oil, and tires. Municipal type solid waste does not include wastes that are solely segregated medical wastes. However, any mixture of segregated medical wastes and other wastes which contains more than 30 percent medical waste discards, is considered to be municipal-type solid waste.
- (d) "Municipal waste combustor" or "MWC" or "MWC unit" means any device that combusts, solid liquid, or gasified MSW including, but not limited to, field-erected incinerators (with or without heat recovery), modular incinerators (starved air or excess air), boilers (i.e., steam generating units), furnaces (whether suspension-fired, grate-fired, mass-fired, or fluidized bed-fired) and gasification/combustion units. This does not include combustion units, engines, or other devices that combust landfill gases collected by landfill gas collection systems.
- (e) "MWC unit capacity" means the maximum design charging rate of an MWC unit expressed in megagrams per day (tons per day) of MSW combusted, calculated according to the procedures under 40 CFR 60.58a(j). Municipal waste combustor unit capacity is calculated using a design heating value of 4,500 British thermal units per pound for MSW and 8,500 British thermal units per pound for medical waste. The calculation procedures under 40 CFR 60.58a(j) include procedures for determining MWC unit capacity for batch MWC's and cofired combustors and combustors firing mixtures of medical waste and other MSW.
- (f) "Refuse-derived fuel" or "RDF" means a type of MSW produced by processing MSW through shredding and size classification. This includes all classes of RDF including low density fluff RDF through

densified RDF and RDF fuel pellets.

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

Stat. Auth.: ORS Ch. 468 & 468A

**Standards of Performance for Portland Cement Plants**

~~340-25-560 [The pertinent federal rules are 40 CFR 60.60 to 60.65, also known as Subpart F. The following emission standards, summarizing the federal standards set forth in Subpart F, shall apply to each Portland cement plant:~~

- ~~(1) Standards for Particulate Matter from Kiln. No owner or operator subject to the provisions of this rule shall cause to be discharged into the atmosphere from any kiln any gases which:
  - ~~(a) Contain particulate matter in excess of 0.15 Kg. per metric ton (0.30 lb. per ton) of feed (dry basis) to the kiln;~~
  - ~~(b) Exhibit greater than 20 percent opacity.~~~~
- ~~(2) Standards for Particulate Matter from Clinker Cooler. No owner or operator subject to the provisions of this rule shall cause to be discharged into the atmosphere from any clinker cooler any gases which:
  - ~~(a) Contain particulate matter in excess of 0.050 Kg. per metric ton (0.10 lb. per ton) of feed (dry basis) to the kiln;~~
  - ~~(b) Exhibit 10 percent opacity or greater.~~~~
- ~~(3) Standards for Particulate Matter for Other Facilities. No owner or operator subject to the provisions of this rule shall cause to be discharged into the atmosphere from any affected facility other than the kiln and clinker cooler any gases which exhibit 10 percent opacity or greater.]~~

**(1) Applicability. This rule applies to the following facilities in portland cement plants for which construction or modification commenced after August 17, 1971:**

- (a) Kiln;
- (b) clinker cooler;
- (c) raw mill system;
- (d) finish mill system;
- (e) raw mill dryer;
- (f) raw material storage;
- (g) clinker storage;
- (h) finished product storage;
- (i) conveyor transfer points;
- (j) bagging and bulk loading; and
- (k) unloading system.

**(2) Requirements. Facilities subject to this rule shall comply with 40 CFR Part 60, Subpart F, as adopted under OAR 340-25-535.**

**(3) Definitions. As used in this rule, "Portland cement plant" means any facility manufacturing portland cement by either the wet or dry process.**

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 97, f. 9-2-75, ef. 9-25-75; DEQ 16-1981, f. & ef. 5-6-81; Renumbered from 340-25-535(3); DEQ 24-1989, f. & cert. ef. 10-26-89

## Standards of Performance for Nitric Acid Plants

~~340-25-565 [The pertinent federal rules are 40 CFR 60.70 to 60.74, also known as Subpart G. The following emission standards summarizing the federal standards set forth in Subpart G, apply to each nitric acid plant which produces "weak nitric acid", which is 30 to 70 percent in strength by either the pressure or atmospheric pressure process: Standards for Nitrogen Oxides. No owner or operator subject to the provisions of this rule shall cause to be discharged into the atmosphere from any affected facility any gases which:~~

~~(1) Contain nitrogen oxides, expressed as  $\text{NO}_2$  in excess of 1.5 Kg. per metric ton of acid produced (3.0 lb. per ton), the production being expressed as 100 percent nitric acid.~~

~~(2) Exhibit 10 percent opacity or greater.]~~

~~(1) Applicability. This rule applies to each nitric acid production unit for which construction or modification commenced after August 17, 1971.~~

~~(2) Requirements. Nitric acid production units subject to this rule shall comply with 40 CFR Part 60, Subpart G, as adopted under OAR 340-25-535.~~

~~(3) Definitions. As used in this rule, "Nitric acid production unit" means any facility producing weak nitric acid by either the pressure or atmospheric pressure process.~~

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 97, f. 9-2-75, ef. 9-25-75; DEQ 16-1981, f. & ef. 5-6-81; Renumbered from 340-25-535(4)

## Standards of Performance for Sulfuric Acid Plants

~~340-25-570 [The pertinent federal rules are 40 CFR 60.80 to 60.85, also known as Subpart H. The following emission standards, summarizing the federal standards set forth in Subpart H, apply to each sulfuric acid production unit but does not include facilities where conversion to sulfuric acid is utilized primarily as a means of preventing emissions to the atmosphere of sulfur dioxide or other sulfur compounds:~~

~~(1) Standards for Sulfur Dioxide. No owner or operator subject to the provisions of this rule shall cause to be discharged into the atmosphere from any affected facility any gases which contain sulfur dioxide in excess of 2.0 Kg. per metric ton of acid produced (4.0 lb. per ton), the production being expressed as 100 percent  $\text{H}_2\text{SO}_4$ .~~

~~(2) Standards for Acid Mist. No owner or operator subject to the provisions of this rule shall cause to be discharged into the atmosphere from any affected facility any gases which:~~

~~(a) Contain acid mist expressed as  $\text{H}_2\text{SO}_4$  in excess of 0.075 Kg. per metric ton of acid produced (0.15 lb. per ton) the production being~~

~~expressed as 100 percent H<sub>2</sub>SO<sub>4</sub>;~~

~~(b) Exhibit 10 percent opacity or greater.]~~

- ~~(1) Applicability. This rule applies to each sulfuric acid production unit for which construction or modification commenced after August 17, 1971.~~
- ~~(2) Requirements. Sulfuric acid production units subject to this rule shall comply with 40 CFR Part 60, Subpart H, as adopted under OAR 340-25-535.~~
- ~~(3) Definitions. As used in this rule, "Sulfuric acid production unit" means any facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, organic sulfides and mercaptans, or acid sludge, but does not include facilities where conversion to sulfuric acid is utilized primarily as a means of preventing emissions to the atmosphere of sulfur dioxide or other sulfur compounds.~~

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 97, f. 9-2-75, ef. 9-25-75; DEQ 16-1981, f. & ef. 5-6-81; Renumbered from 340-25-535(5)

## Standards of Performance for Hot Mix Asphalt Facilities

~~340-25-575 [The pertinent federal rules are 40 CFR 60.90 to 60.93, also known as Subpart I. The following emission standards, summarizing the federal standards set forth in Subpart I, apply to each hot mix asphalt facility: Standards for Particulate Matter. No owner or operator subject to the provisions of this rule shall discharge or cause the discharge into the atmosphere from any affected facility any gases which:~~

~~(1) Contain particulate matter in excess of 90 mg/dsem (0.040 gr/dsef).~~

~~(2) Exhibit 20 percent opacity or greater.]~~

- ~~(1) Applicability. This rule applies to each hot mix asphalt facility for which construction or modification commenced after June 11, 1973.~~
- ~~(2) Requirements. Hot mix asphalt facilities subject to this rule shall comply with 40 CFR Part 60, Subpart I, as adopted under OAR 340-25-535.~~
- ~~(3) Definitions. As used in this rule, "Hot mix asphalt facility" means any combination of the following used to manufacture hot mix asphalt by heating and drying aggregate and mixing with asphalt cements: dryers; systems for screening, handling, storing, and weighing hot aggregate; systems for loading, transferring, and storing mineral filler; systems for mixing hot asphalt; and the loading, transfer, and storage systems associated with emission control systems.~~

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 97, f. 9-2-75, ef. 9-25-75; DEQ 16-1981, f. & ef. 5-6-81; Renumbered from 340-25-535(6); DEQ 19-1986, f. & ef. 11-7-86

## Standards of Performance for Petroleum Refineries

~~340-25-580 [The pertinent federal rules are 40 CFR 60.100 to 60.106, also known as Subpart J. The following emission standards, summarizing the federal standards set forth in Subpart J, apply to the following affected facilities in petroleum refineries: Fluid catalytic cracking unit catalyst regenerators, Claus sulfur recovery plants exceeding 20 long tons per day, and fuel gas combustion devices:~~

- ~~(1) Standards for Particulate Matter. No owner or operator subject to the provisions of this rule shall discharge or cause the discharge into the atmosphere from any fluid catalytic cracking unit catalyst regenerator:
  - ~~(a) Particulate matter in excess of 1.0 Kg/1000 Kg. (1.0 lb./1000 lb.) of coke burn off in the catalyst regenerator;~~
  - ~~(b) Gases exhibiting 30 percent opacity or greater, except for 6.0 minutes in any one hour;~~
  - ~~(c) In those instances in which auxiliary liquid or solid fossil fuels are burned in the fluid catalytic cracking unit incinerator waste boiler, particulate matter in excess of that permitted by subsection (1)(a) of this rule may be emitted to the atmosphere, except that the incremental rate of particulate emissions shall not exceed 43.0 g/MJ (0.10 lb./million BTU) of heat input attributable to such liquid or solid fuel.~~~~
- ~~(2) Standard for Carbon Monoxide. No owner or operator subject to the provisions of this rule shall discharge or cause the discharge into the atmosphere from the fluid catalytic cracking unit catalyst regenerator any gases which contain carbon monoxide in excess of 0.050 percent by volume.~~
- ~~(3) Standards for Sulfur Dioxide. No owner or operator subject to the provisions of this rule shall burn in any fuel gas combustion device any fuel gas which contains H<sub>2</sub>S in excess of 230 mg/dsem (0.10 gr/dsef), except as provided in this section. The combustion of process upset gas in a flare, or the combustion in a flare of process gas or fuel gas which is released to the flare as a result of relief valve leakage, is exempt from this section. The owner or operator may elect to treat the gases resulting from the combustion of fuel gas in a manner which limits the release of SO<sub>2</sub> to the atmosphere if it is demonstrated through a submission to, and approved by the Department that this prevents SO<sub>2</sub> emissions as effectively as compliance with the requirements of this section.~~
- ~~(4) No owner or operator subject to the provisions of this rule shall discharge or cause the discharge of any gases into the atmosphere from any Claus sulfur recovery plant containing in excess of:
  - ~~(a) 0.025 percent by volume of sulfur dioxide at zero percent oxygen on a dry basis if emissions are controlled by an oxidation control system, or a reduction control system followed by incineration; or~~
  - ~~(b) 0.030 percent by volume of reduced sulfur compounds and 0.0010 percent by volume of hydrogen sulfide calculated as sulfur dioxide at zero percent oxygen on a dry basis if emissions are controlled by a reduction control system not followed by incineration.]~~~~

~~(1) Applicability~~

- ~~(a) Except as provided in subsections (b) through (d) of this section and section (3) of this rule, this rule applies to the following facilities in petroleum refineries:
  - ~~(A) fluid catalytic cracking unit catalyst regenerators and fuel gas combustion devices for which construction or modification~~~~

- commenced after June 11, 1973; and
- (B) all Claus sulfur recovery plants, including those physically located outside the boundaries of a petroleum refinery which process gases produced within a petroleum refinery, for which construction or modification commenced after October 4, 1976.
- (b) Claus plants of 20 long tons per day (LTD) or less are not subject to this rule.
- (c) A fluid catalytic cracking unit catalyst regenerator for which construction or modification commenced on or before January 17, 1984, is not subject to 40 CFR 60.104(b).
- (d) A fluid catalytic cracking unit in which a contact material reacts with petroleum derivatives to improve feedstock quality, and in which the contact material is regenerated by burning off coke and/or other deposits, and for which construction or modification commenced on or before January 17, 1984, is not subject to this rule.
- (2) Requirements. Facilities subject to this rule shall comply with 40 CFR Part 60, Subpart J, as adopted under OAR 340-25-535.
- (3) Special Provisions. For the purposes of 40 CFR Part 60, Subpart J, the term "fixed capital cost of the new components" as used in determining if a facility has been reconstructed, includes the fixed capital cost of all depreciable components which are or will be replaced pursuant to all continuous programs of component replacement which are commenced within any 2-year period following January 17, 1984. For purposes of this section, "commenced" means that an owner or operator has undertaken a continuous program of component replacement or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of component replacement.
- (4) Definitions. As used in this rule:
- (a) "Claus sulfur recovery plant" means a process unit which recovers sulfur from hydrogen sulfide by a vapor phase catalytic reaction of sulfur dioxide and hydrogen sulfide.
- (b) "Coke burn-off" means the coke removed from the surface of the fluid catalytic cracking unit catalyst by combustion in the catalyst regenerator. The rate of coke burn-off is calculated by the formula specified in 40 CFR 60.106.
- (c) "Fluid catalytic cracking unit" means a refinery process unit in which petroleum derivatives are continuously charged; hydrocarbon molecules in the presence of a catalyst suspended in a fluidized bed are fractured into smaller molecules, or react with a contact material suspended in a liquidized bed to improve feedstock quality for additional processing; and the catalyst or contact material is continuously regenerated by burning off coke and other deposits. The unit includes the riser, reactor, regenerator, air blowers, spent catalyst or contact material stripper, catalyst or contact material recovery equipment, and regenerator equipment for controlling air pollutant emissions and for heat recovery.
- (d) "Fluid catalytic cracking unit catalyst regenerator" means one or more regenerators (multiple regenerators) which comprise that portion of the fluid catalytic cracking unit in which coke burn-off and catalyst or

contact material regeneration occurs, and includes the regenerator combustion air blower(s).

- (e) "Fuel gas" means any gas which is generated at a petroleum refinery and which is combusted. Fuel gas also includes natural gas when the natural gas is combined and combusted in any proportion with a gas generated at a refinery. Fuel gas does not include gases generated by catalytic cracking unit catalyst regenerators and fluid coking burners.
- (f) "Fuel gas combustion device" means any equipment, such as process heaters, boilers and flares used to combust fuel gas, except facilities in which gases are combusted to produce sulfur or sulfuric acid.
- (g) "Petroleum" means the crude oil removed from the earth and the oils derived from tar sands, shale, and coal.
- (h) "Petroleum refinery" means any facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants, or other products through the distillation of petroleum or through the redistillation, cracking or reforming of unfinished petroleum derivatives.

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 97, f. 9-2-75, ef. 9-25-75; DEQ 16-1981, f. & ef. 5-6-81; Renumbered from 340-25-535(7); AQ 1-1993, f. & ef. 3-9-93

### **Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification commenced After June 11, 1973, and Prior to May 19, 1978**

~~340-25-585 [The pertinent federal rules are 40 CFR 60.110 to 60.115a, also known as Subparts K and Ka. The following requirements, summarizing the federal requirements set forth in Subparts K and Ka, apply to each storage vessel for petroleum liquids which has a storage capacity greater than 151,412 liters (40,000 gallons). These requirements do not apply to storage vessels for petroleum or condensate stored, processed and/or treated at a drilling and production facility prior to custody transfer. "Petroleum liquids" means petroleum, condensate, and any finished or intermediate products manufactured in a petroleum refinery but does not mean Number 2 through Number 6 fuel oils as specified in ASTM D 396 69, gas turbine fuel oils Numbers 2 GT through 4 GT as specified in ASTM D 2880 71, or diesel fuel oils Numbers 2 D and 4 D as specified in ASTM D 975 68. Standard for Hydrocarbons. The owner or operator of any storage vessel to which this section applies shall store petroleum liquids as follows:~~

- ~~(1) If the true vapor pressure of the petroleum liquid as stored is equal to or greater than 78 mm Hg (1.5 psia), the storage vessel shall be equipped with a floating roof, a vapor recovery system, or an equivalent.~~
- ~~(2) If the true vapor pressure of the petroleum liquid as stored is greater than 570 mm Hg (11.1 psia), the storage vessel shall be equipped with a vapor recovery system or its equivalent.~~
- ~~(3) If construction is commenced after May 18, 1978, vessels in section (1) of this rule shall have double seals if external floating roof vessels, and comply~~



~~with 40 CFR 60.110a to 115a.~~

- ~~(4) If construction is commenced after May 18, 1978, vapor recovery systems allowed by sections (1) and (3) of this rule, and required by section (2) of this rule shall be designed so as to reduce Volatile Organic Compounds emissions to the atmosphere by at least 95 percent by weight.]~~

**(1) Applicability**

- (a) Except as provided in subsection (b) of this section, this rule applies to each storage vessel for petroleum liquids which has a storage capacity greater than 40,000 gallons; and**
- (A) has a capacity not exceeding 65,000 gallons and for which construction or modification commenced after March 8, 1974, and prior to May 19, 1978; or**
  - (B) has a capacity greater than 65,000 gallons for which construction or modification commenced after June 11, 1973 and prior to May 19, 1978.**
- (b) A storage vessel for petroleum or condensate stored, processed, and/or treated at a drilling and production facility prior to custody transfer is not subject to this rule.**

- (2) Requirements. Storage vessels subject to this rule shall comply with 40 CFR Part 60, Subpart K, as adopted under OAR 340-25-535.**

**(3) Definitions. As used in this rule:**

- (a) "Condensate" means hydrocarbon liquid separated from natural gas that condenses due to changes in the temperature or pressure, or both, and remains liquid at standard conditions.**
- (b) "Custody transfer" means the transfer of produced petroleum and/or condensate, after processing and/or treating in the producing operations, from storage tanks or automatic transfer facilities to pipelines or any other forms of transportation.**
- (c) "Petroleum" means the crude oil removed from the earth and the oils derived from tar sands, shale, and coal.**
- (d) "Petroleum liquids" means petroleum, condensate, and any finished or intermediate products manufactured in a petroleum refinery but does not mean Nos. 2 through 6 fuel oils as specified in ASTM D396-78, gas turbine fuel oils Nos. 2-GT through 4-GT as specified in ASTM D2880-78, or diesel fuel oils Nos. 2-D and 4-D as specified in ASTM D975-78.**
- (e) "Petroleum refinery" means any facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants, or other products through the distillation of petroleum or through the redistillation, cracking or reforming of unfinished petroleum derivatives.**
- (f) "Storage vessel" means any tank, reservoir, or container used for the storage of petroleum liquids, but does not include:**
  - (A) pressure vessels which are designed to operate in excess of 15 pounds per square inch gauge without emissions to the atmosphere, except under emergency conditions;**
  - (B) subsurface caverns or porous rock reservoirs; or**
  - (C) underground tanks, if the total volume of petroleum liquids added to and taken from a tank annually does not exceed twice the volume of the tank.**

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 97, f. 9-2-75, ef. 9-25-75; DEQ 16-1981, f. & ef. 5-6-81; Renumbered from 340-35-535(8)

**Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984**

**340-25-586**

**(1) Applicability**

**(a) Except as provided in subsection (b) of this section, this rule applies to each storage vessel for petroleum liquids which has a storage capacity greater than 40,000 gallons and for which construction is commenced after May 18, 1978.**

**(b) Any petroleum liquid storage vessel with a capacity of less than 420,000 gallons used for petroleum or condensate stored, processed, or treated prior to custody transfer is not subject to this rule.**

**(2) Requirements. Storage vessels subject to this rule shall comply with 40 CFR Part 60, Subpart Ka, as adopted under OAR 340-25-535.**

**(3) Definitions. As used in this rule:**

**(a) "Condensate" means hydrocarbon liquid separated from natural gas that condenses due to changes in the temperature or pressure, or both, and remains liquid at standard conditions.**

**(b) "Custody transfer" means the transfer of produced petroleum and/or condensate, after processing and/or treating in the producing operations, from storage tanks or automatic transfer facilities to pipelines or any other forms of transportation.**

**(c) "Petroleum" means the crude oil removed from the earth and the oils derived from tar sands, shale, and coal.**

**(d) "Petroleum liquids" means petroleum, condensate, and any finished or intermediate products manufactured in a petroleum refinery but does not mean Nos. 2 through 6 fuel oils as specified in ASTM D396-78, gas turbine fuel oils Nos. 2-GT through 4-GT as specified in ASTM D2880-78, or diesel fuel oils Nos. 2-D and 4-D as specified in ASTM D975-78.**

**(e) "Storage vessel" means any tank, reservoir, or container used for the storage of petroleum liquids, but does not include:**

**(A) pressure vessels which are designed to operate in excess of 15 pounds per square inch gauge without emissions to the atmosphere, except under emergency conditions;**

**(B) subsurface caverns or porous rock reservoirs; or**

**(C) underground tanks, if the total volume of petroleum liquids added to and taken from a tank annually does not exceed twice the volume of the tank.**

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

Stat. Auth.: ORS Ch. 468 & 468A

## **Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for which Construction, Reconstruction, or Modification Commenced after July 23, 1984**

~~340-25-587 [The pertinent federal rules at are 40 CFR 60.110b to 60.116b, also known as Subpart Kb. The following requirements, summarizing the federal requirements set forth in Subpart Kb, apply to each storage vessel for volatile organic liquids (VOL's) which has a storage capacity greater than or equal to 40 cubic meters ( $m^3$ ), for which construction, reconstruction, or modification is commenced after July 23, 1984. "Volatile organic liquid" (VOL) means any organic liquid which can emit volatile organic compounds into the atmosphere. These compounds are identified in EPA statements on ozone abatement policy for SIP revisions (42 FR 35314, 44 FR 32042, 45 FR 32424, and 45 FR 48941). Each storage vessel with a design capacity greater than or equal to 40  $m^3$  and less than 75  $m^3$  shall have readily accessible records showing the dimension of the vessel and an analysis showing the capacity of the vessel. The owner or operator of any storage vessel to which this section applies shall store a VOL as follows:~~

- ~~(1) — If the storage capacity is greater than or equal to 151  $m^3$  and the true vapor pressure of the VOL as stored is equal to or greater than 5.2 kPa but less than 76.6 kPa, or the storage capacity is greater than or equal to 75  $m^3$  but less than 151  $m^3$  and the true vapor pressure is equal to or greater than 27.6 kPa but less than 76.6 kPa, the storage vessel shall be equipped with either a fixed internal roof combination, an external floating roof, closed vent system and control device, or an equivalent.~~
- ~~(2) — If the storage capacity is greater than or equal to 75  $m^3$  and the true vapor pressure of the VOL as stored is greater than or equal to 76.6 kPa, the storage vessel shall be equipped with either a closed vent system and control device, or an equivalent.]~~

### **(1) Applicability**

- (a) Except as provided in subsections (b) through (d) of this section, this rule applies to each storage vessel with a capacity greater than or equal to 40 cubic meters ( $m^3$ ) used to store volatile organic liquids (VOL's), for which construction, reconstruction, or modification is commenced after July 23, 1984.**
- (b) Except for record-keeping requirements specified in 40 CFR 60.116b(a) and (b), storage vessels with design capacity less than 75  $m^3$  are not subject to OAR 340-25-530 or this rule.**
- (c) Except for record-keeping requirements specified in 40 CFR 60.116b(a) and (b), vessels either with a capacity greater than or equal to 151  $m^3$  storing a liquid with a maximum true vapor pressure less than 3.5 kPa or with a capacity greater than or equal to 75  $m^3$  but less than 151  $m^3$  storing a liquid with a maximum true vapor pressure less than 15.0 kPa are not subject to OAR 340-25-530 or this rule.**
- (d) The following storage vessels are not subject to this rule:**
  - (A) Vessels at coke oven by-product plants.**
  - (B) Pressure vessels designed to operate in excess of 204.9 kPa and without emissions to the atmosphere.**
  - (C) Vessels permanently attached to mobile vehicles such as trucks,**

- rail cars, barges, or ships.
- (D) Vessels with a design capacity less than or equal to 1,589.874 m<sup>3</sup> used for petroleum or condensate stored, processed, or treated prior to custody transfer.
  - (E) Vessels located at bulk gasoline plants.
  - (F) Storage vessels located at gasoline service stations.
  - (G) Vessels used to store beverage alcohol.
- (2) Requirements. Storage vessels subject to this rule shall comply with 40 CFR Part 60, Subpart Kb, as adopted under OAR 340-25-535.
- (3) Definitions. As used in this rule:
- (a) "Bulk gasoline plant" means any gasoline distribution facility that has a gasoline throughput less than or equal to 75,700 liters per day. Gasoline throughput shall be the maximum calculated design throughput as may be limited by compliance with an enforceable condition under Federal requirement or Federal, State or local law, and discoverable by the Department and any other person.
  - (b) "Condensate" means hydrocarbon liquid separated from natural gas that condenses due to changes in the temperature or pressure, or both, and remains liquid at standard conditions.
  - (c) "Custody transfer" means the transfer of produced petroleum and/or condensate, after processing and/or treatment in the producing operations, from storage vessels or automatic transfer facilities to pipelines or any other forms of transportation.
  - (d) "Maximum true vapor pressure" means the equilibrium partial pressure exerted by the stored VOL at the temperature equal to the highest calendar-month average of the VOL storage temperature for VOL's stored above or below the ambient temperature or at the local maximum monthly average temperature as reported by the National Weather Service for VOL's stored at the ambient temperature:
    - (A) As determined in accordance with methods described in American Petroleum Institute Bulletin 2517, Evaporation Loss From External Floating Roof Tanks;
    - (B) As obtained from standard reference texts; or
    - (C) As determined by ASTM Method D2879-83;
    - (D) As determined by any other method approved by the Department.
  - (e) "Petroleum" means the crude oil removed from the earth and the oils derived from tar sands, shale, and coal.
  - (f) "Petroleum liquids" means petroleum, condensate, and any finished or intermediate products manufactured in a petroleum refinery.
  - (g) "Storage vessel" means each tank, reservoir, or container used for the storage of volatile organic liquids, but does not include:
    - (A) frames, housing, auxiliary supports, or other components that are not directly involved in the containment of liquids or vapors; or
    - (B) subsurface caverns or porous rock reservoirs.
  - (h) "Volatile organic liquid" or "VOL" means any organic liquid which can emit volatile organic compounds into the atmosphere except those VOL's that emit only those compounds which the Department has determined do not contribute appreciably to the formation of ozone.

These compounds are identified in 42 FR 35314, 44 FR 32042, 45 FR 32424, and 45 FR 48941.

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

Stat. Auth.: 468 & 468A

Hist.: DEQ 24-1989, f. & cert. ef. 10-26-89

## Standards of Performance for Secondary Lead Smelters

~~340-25-590 [The pertinent federal rules are 40 CFR 60.120 to 60.123, also known as Subpart L. The following emission standards, summarizing the federal standards set forth in Subpart L, apply to the following facilities subject to this rule in secondary lead smelters: Pot furnaces of more than 250 Kg. (550 lbs.) charging capacity, blast (cupola) furnaces, and reverberatory furnaces: Standards for Particulate Matter. No owner or operator subject to the provisions of this rule shall discharge or cause the discharge into the atmosphere from a blast (cupola) or reverberatory furnace any gases which:~~

- ~~(1) Contain particulate matter in excess of 50 mg/dsem (0.022 gr/dsef).~~
  - ~~(2) Exhibit 20 percent opacity or greater.~~
  - ~~(3) No owner or operator subject to the provisions of this rule shall discharge or cause the discharge into the atmosphere from any pot furnace any gases which exhibit 10 percent opacity or greater.]~~
- (1) Applicability. This rule applies to the following facilities in secondary lead smelters for which construction or modification after June 11, 1973:
    - (a) Pot furnaces of more than 550 lb charging capacity;
    - (b) blast (cupola) furnaces; and
    - (c) reverberatory furnaces.
  - (2) Requirements. Facilities subject to this rule shall comply with 40 CFR Part 60, Subpart L, as adopted under OAR 340-25-535.
  - (3) Definitions. As used in this rule:
    - (a) "Reverberatory furnace" includes the following types of reverberatory furnaces: stationary, rotating, rocking, and tilting.
    - (b) "Secondary lead smelter" means any facility producing lead from a leadbearing scrap material by smelting to the metallic form.

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 97, f. 9-2-75, ef. 9-25-75; DEQ 16-1981, f. & ef. 5-6-81; Renumbered from 340-25-535(9)

## Standards of Performance for Secondary Brass and Bronze Production Plants

~~340-25-595 [The pertinent federal rules are 40 CFR 60.130 to 60.133, also known as Subpart M. The following emission standards, summarizing the federal standards set forth in Subpart M, apply to the following affected facilities in secondary brass or bronze production plants subject to this rule: Reverberatory and electric~~

~~furnaces of 1000 Kg. (2205 lbs.) or greater production capacity and blast (cupola) furnaces of 250 Kg/hr. (550 lbs./hr.) or greater production capacity; Standards for Particulate Matter. No owner or operator subject to the provisions of this rule shall discharge or cause the discharge into the atmosphere from a reverberatory furnace any gases which:~~

- ~~(1) Contain particulate matter in excess of 50 mg/dsem (0.022 gr/dsef).~~
- ~~(2) Exhibit 20 percent opacity or greater.~~
- ~~(3) No owner or operator subject to the provisions of this rule shall discharge or cause the discharge into the atmosphere from any blast (cupola) or electric furnace any gases which exhibit 10 percent opacity or greater.]~~

**(1) Applicability**

**(a) Except as provided in subsection (b) of this section, this rule applies to the following facilities in secondary brass or bronze production plants for which construction or modification commenced after June 11, 1973:**

**(A) reverberatory and electric furnaces of 2205 lb or greater production capacity; and**

**(B) blast (cupola) furnaces of 550 lb/h or greater production capacity.**

**(b) Furnaces from which molten brass or bronze are cast into the shape of finished products, such as foundry furnaces, are not subject to this rule.**

**(2) Requirements. Facilities subject to this rule shall comply with 40 CFR Part 60, Subpart M, as adopted under OAR 340-25-535.**

**(3) Definitions. As used in this rule:**

**(a) "Blast furnace" means any reduction furnace to which sinter is charged and which forms separate layers of molten slag and lead bullion.**

**(b) "Brass" or "bronze" means any metal alloy containing copper as its predominant constituent, and lesser amounts of zinc, tin, lead, or other metals.**

**(c) "Electric furnace" means any furnace which uses electricity to produce over 50 percent of the heat required in the production of refined brass or bronze.**

**(d) "Reverberatory furnace" includes the following types of reverberatory furnaces: stationary, rotating, rocking, and tilting.**

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 97, f. 9-2-75, ef. 9-25-75; DEQ 16-1981, f. & ef. 5-6-81; Renumbered from 340-25-535(10); DEQ 15-1985, f. & ef. 10-21-85

## **Standards of Performance for Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973**

~~340-25-600 [The pertinent federal rules are 40 CFR 60.140 to 60.144, also known as Subpart N. The following emission standards, summarizing the federal standards set forth in Subpart N, apply to each basic oxygen process furnace in iron~~

and steel plants subject to this rule if the furnace was modified or constructed after June 11, 1973: Standards for Particulate Matter. No owner or operator subject to the provisions of this rule shall discharge or cause the discharge into the atmosphere from any affected facility any gases which:

- ~~(1) Contain particulate matter in excess of 50 mg/dsem (0.022 gr/dsef).~~
- ~~(2) Exit from a control device and exhibit 10 percent opacity or greater, except that an opacity of greater than 10 percent but less than 20 percent may occur once per steel production cycle.~~
- ~~(3) Contain particulate matter in excess of 68 mg/dsem (0.030 gr/dsef) as measured for the primary oxygen blow, if constructed, modified, or reconstructed after January 20, 1983.~~

- (1) Applicability.** This rule applies to each basic oxygen process furnace for which construction or modification commenced after June 11, 1973.
- (2) Requirements.** Basic oxygen process furnaces subject to this rule shall comply with 40 CFR Part 60, Subpart N, as adopted under OAR 340-25-535.
- (3) Definitions.** As used in this rule, "Basic oxygen process furnace" or "BOPF" means any furnace with a refractory lining in which molten steel is produced by charging scrap metal, molten iron, and flux materials or alloy additions into a vessel and by introducing a high volume of oxygen-rich gas. This does not include open hearth, blast, and reverberatory furnaces.

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 97, f. 9-2-75, ef. 9-25-75; DEQ 16-1981, f. & ef. 5-6-81; Renumbered from 340-25-535(11); DEQ 19-1986, f. & ef. 11-7-86

## **Standards of Performance for Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983**

~~340-25-602 [The pertinent federal rules are 40 CFR 60.140a to 60.145a, also known as Subpart Na. The following emission standards, summarizing the federal standards set forth in Subpart Na, apply to top blown Basic Oxygen Process Facilities and hot metal transfer stations and skimming stations used with bottom blown or top blown Basic Oxygen Process Facilities, that commenced construction, modification, or reconstruction after January 20, 1983, in any iron and steel plant: Standard for Particulate Matter. No owner or operator shall discharge or cause the discharge into the atmosphere any secondary emissions that:~~

- ~~(1) Exit from the Basic Oxygen Process Facility (BOPF) shop roof monitor (or other building openings) and exhibit greater than 10 percent opacity during the steel production cycle of any top blown BOPF or during hot metal transfer or skimming operations for any bottom blown BOPF; except that an opacity greater than 10 percent but less than 20 percent may occur once per steel production cycle.~~
- ~~(2) Exit from a control device used solely for the collection of secondary emissions from a top blown BOPF or from hot metal transfer or skimming for a top blown or a bottom blown BOPF and contain particulate matter in excess~~

- of 23 mg/dsem (0.010 gr/dsef).
- ~~(3) Exit from a control device used solely for the collection of secondary emissions from a top-blown BOPF or from hot metal transfer or skimming for a top-blown or a bottom-blown BOPF and exhibit more than 5 percent opacity.~~
- ~~(4) A fume suppression system used to control secondary emissions from an affected facility is not subject to paragraphs (b) and (c) of this standard.~~
- ~~(5) A control device used to collect both primary and secondary emissions from a BOPF is not subject to paragraphs (b) and (c) of this standard.]~~
- (1) Applicability. This rule applies to the following facilities in an iron and steel plant for which construction, modification, or reconstruction commenced after January 20, 1983:**
- (a) top-blown BOPF's; and**
- (b) hot metal transfer stations and skimming stations used with bottom-blown or top-blown BOPF's.**
- (2) Requirements. Facilities subject to this rule shall comply with 40 CFR Part 60, Subpart Na and those provisions of 40 CFR Part 60, Subpart N, as adopted under OAR 340-25-535, applicable to facilities commencing construction, modification or reconstruction after January 20, 1983.**
- (3) Definitions. As used in this rule:**
- (a) "Basic oxygen process furnace" or "BOPF" means any furnace with a refractory lining in which molten steel is produced by charging scrap metal, molten iron, and flux materials or alloy additions into a vessel and by introducing a high volume of oxygen-rich gas. This does not include open hearth, blast, and reverberatory furnaces.**
- (b) "Bottom-blown furnace" means any BOPF in which oxygen and other combustion gases are introduced to the bath of molten iron through tuyeres in the bottom of the vessel or through tuyeres in the bottom and sides of the vessel.**
- (c) "Skimming station" means the facility where slag is mechanically raked from the top of the bath of molten iron.**
- (d) "Top-blown furnace" means any BOPF in which oxygen is introduced to the bath of molten iron by means of an oxygen lance inserted from the top of the vessel.**

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 19-1986, f. & ef. 11-7-86; AQ 1-1993, f. & ef. 3-9-93

## **Standards of Performance for Sewage Treatment Plants**

~~340-25-605 [The pertinent federal rules are 40 CFR 60.150 to 60.154, also known as Subpart O. The following emission standards, summarizing the federal standards set forth in Subpart O, apply to each incinerator which burns the sludge produced by municipal sewage treatment facilities: Standards for Particulate Matter. No owner or operator of any sewage sludge incinerator subject to the provisions of this rule shall discharge or cause the discharge into the atmosphere of:~~



- ~~(1) Particulate matter at a rate in excess of 0.65 g/Kg. (1.30 lb./ton) dry sludge input.~~
- ~~(2) Any gases which exhibit 20 percent opacity or greater.]~~
- (1) Applicability. This rule applies to the following incinerators for which construction or modification commenced after June 11, 1973:**
- (a) each incinerator that combust wastes containing more than 10 percent sewage sludge (dry basis) produced by municipal sewage treatment plants; or**
- (b) each incinerator that charges more than 2,205 pounds per day municipal sewage sludge (dry basis).**
- (2) Requirements. Incinerators subject to this rule shall comply with 40 CFR Part 60, Subpart O, as adopted under OAR 340-25-535.**

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 97, f. 9-2-75, ef. 9-25-75; DEQ 16-1981, f. & ef. 5-6-81; Renumbered from 340-25-535(12)

## **Standards of Performance for Primary Copper Smelters**

### **340-25-606**

**(1) Applicability.**

**This rule applies to the following facilities in primary copper smelters for which construction or modification commenced after October 16, 1974:**

- (a) Dryer;**
- (b) roaster;**
- (c) smelting furnace; and**
- (d) copper converter.**

**(2) Requirements. Emission units subject to this rule shall comply with 40 CFR Part 60, Subpart P, as adopted under OAR 340-25-535.**

**(3) Definitions. As used in this rule:**

- (a) "Copper converter" means any vessel to which copper matte is charged and oxidized to copper.**
- (b) "Dryer" means any facility in which a copper sulfide ore concentrate charge is heated in the presence of air to eliminate a portion of the moisture from the charge, provided less than 5 percent of the sulfur contained in the charge is eliminated in the facility.**
- (c) "Primary copper smelter" means any installation or any intermediate process engaged in the production of copper from copper sulfide ore concentrates through the use of pyrometallurgical techniques.**
- (d) "Roaster" means any facility in which a copper sulfide ore concentrate charge is heated in the presence of air to eliminate a significant portion (5 percent or more) of the sulfur contained in the charge.**
- (e) "Smelting" means processing techniques for the melting of a copper sulfide ore concentrate or calcine charge leading to the formation of separate layers of molten slag, molten copper, and/or copper matte.**
- (f) "Smelting furnace" means any vessel in which the smelting of copper sulfide ore concentrates or calcines is performed and in which the heat**

necessary for smelting is provided by an electric current, rapid oxidation of a portion of the sulfur contained in the concentrate as it passes through an oxidizing atmosphere, or the combustion of a fossil fuel.

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

Stat. Auth.: ORS Ch. 468 & 468A

## Standards of Performance for Primary Zinc Smelters

### 340-25-607

- (1) Applicability. This rule applies to the following facilities in primary zinc smelters for which construction or modification commenced after October 16, 1974:
  - (a) roaster; and
  - (b) sintering machine.
- (2) Requirements. Facilities subject to this rule shall comply with 40 CFR Part 60, Subpart Q, as adopted under OAR 340-25-535.
- (3) Definitions. As used in this rule:
  - (a) "Primary zinc smelter" means any installation engaged in the production, or any intermediate process in the production, of zinc or zinc oxide from zinc sulfide ore concentrates through the use of pyrometallurgical techniques.
  - (b) "Roaster" means any facility in which a copper sulfide ore concentrate charge is heated in the presence of air to eliminate a significant portion (10 percent or more) of the sulfur contained in the charge.
  - (c) "Sintering machine" means any furnace in which a calcines are heated in the presence of air to agglomerate the calcines into a hard porous mass called sinter.

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

Stat. Auth.: ORS Ch. 468 & 468A

## Standards of Performance for Primary Lead Smelters

### 340-25-608

- (1) Applicability. This rule applies to the following facilities in primary lead smelters for which construction or modification commenced after October 16, 1974:
  - (a) sintering machine;
  - (b) sintering machine discharge end;
  - (c) blast furnace;
  - (d) dross reverberatory furnace;
  - (e) electric smelting furnace; and
  - (f) converter.
- (2) Requirements. Facilities subject to this rule shall comply with 40 CFR Part 60, Subpart R, as adopted under OAR 340-25-535.

**(3) Definitions. As used in this rule:**

- (a) "Blast furnace" means any furnace used to recover metal from slag.**
- (b) "Converter" means any vessel to which lead concentrate or bullion is charged and refined.**
- (c) "Dross reverberatory furnace" means any furnace used for the removal or refining of impurities from lead bullion.**
- (d) "Electric smelting furnace" means any furnace in which the heat necessary for smelting of the lead sulfide ore concentrate charge is generated by passing an electric current through a portion of the molten mass in the furnace.**
- (e) "Primary lead smelter" means any installation or any intermediate process engaged in the production of lead from lead sulfide ore concentrates through the use of pyrometallurgical techniques.**
- (f) "Sintering machine" means any furnace in which a lead sulfide ore concentrate charge is heated in the presence of air to agglomerate the charge into a hard porous mass called sinter.**
- (g) "Sintering machine discharge end" means any apparatus which receives sinter as it is discharged from the conveying grate of a sintering machine.**

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

Stat. Auth.: ORS Ch. 468 & 468A

## **Standards of Performance for Primary Aluminum Reduction Plants**

### **340-25-609**

- (1) Applicability. This rule applies to the following facilities in primary aluminum reduction plants for which construction or modification commenced after October 23, 1974:**
  - (a) potroom groups; and**
  - (b) anode bake plants.**
- (2) Requirements. Facilities subject to this rule shall comply with 40 CFR Part 60, Subpart S, as adopted under OAR 340-25-535.**
- (3) Definitions. As used in this rule:**
  - (a) "Anode bake plant" means a facility which produces carbon anodes for use in a primary aluminum reduction plant.**
  - (b) "Potroom" means a building unit which houses a group of electrolytic cells in which aluminum is produced.**
  - (c) "Potroom group" means an uncontrolled potroom, a potroom which is controlled individually, or a group of potrooms or potroom segments ducted to a common control system.**
  - (d) "Primary aluminum reduction plant" means any facility manufacturing aluminum by electrolytic reduction.**

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

## Standards of Performance for Electric Utility Steam Generating Units for Which Construction Is Commenced After September 18, 1978

~~340-25-610 {The pertinent federal rules are 40 CFR 60.40a to 60.49a, also known as Subpart Da. The following emission standards, summarizing the federal standards set forth in Subpart Da, apply to each electric utility steam generating unit that is capable of combusting more than 73 megawatts (250 million Btu/hour) heat input of fossil fuel (either alone or in combination with any other fuel) and for which construction commenced after September 18, 1978:~~

- ~~(1) Standards for Particulate Matter. No owner or operator subject to the provision of this rule shall cause to be discharged into the atmosphere from any affected facility any gases which contain particulate matter in excess of:
  - ~~(a) 13 ng/J (0.030 lb./million Btu) heat input derived from the combustion of solid, liquid, or gaseous fuel;~~
  - ~~(b) 1.00 percent of the potential combustion concentration when combusting solid fuel;~~
  - ~~(c) 30 percent of the potential combustion concentration when combusting liquid fuel; and~~
  - ~~(d) An opacity of 20 percent, except for one 6 minute period per hour of not more than 27 percent opacity.~~~~
- ~~(2) Standards for Sulfur Dioxide. No owner or operator subject to the provisions of this rule shall cause to be discharged into the atmosphere from any affected facility any gases which contain sulfur dioxide in excess of:
  - ~~(a) 520 ng/J (1.20 lb. per million Btu) heat input for solid fuel or solid derived fuel and 10 percent of the potential combustion concentration (90 percent reduction); or~~
  - ~~(b) 30 percent of the potential combustion concentration (70 percent reduction), when emissions are less than 260 ng/J (0.60 lb. per million Btu) heat input for solid fuel or solid derived fuel;~~
  - ~~(c) 340 ng/J (0.80 lb. per million Btu) heat input from liquid or gaseous fuels and 10 percent of the potential combustion concentration (90 percent reduction); or~~
  - ~~(d) When emissions are less than 80 ng/J (0.20 lb. per million Btu) heat input from liquid or gaseous fuels, 100 percent of the potential combustion concentration (zero percent reduction);~~
  - ~~(e) 520 ng/J (1.20 lb. per million Btu) heat input from any affected facility which combusts 100 percent anthracite or is classified as a resource recovery facility.~~~~
- ~~(3) Standards for Nitrogen Oxides. No owner or operator subject to the provisions of this rule shall cause to be discharged into the atmosphere from any affected facility any gases which contain nitrogen oxides in excess of:
  - ~~(a) 86 ng/J heat input for gaseous fuels except for coal derived gaseous fuels;~~
  - ~~(b) 130 ng/J heat input for liquid fuels except for coal derived or shale oil;~~
  - ~~(c) 210 ng/J heat input for coal derived gaseous, liquid, and solid fuels; for shale oil; or for subbituminous coal;~~
  - ~~(d) 260 ng/J heat input from bituminous and anthracite coal; from lignite~~~~

~~except as noted in subsection (c) of this section; from all other solid fossil fuels not specified elsewhere in this rule;~~

~~(e) 340 ng/J heat input from any solid fuel containing more than 25% by weight of lignite mined in the Dakotas or Montana, and is combusted in a slag tap furnace;~~

~~(f) No limit for any solid fuel containing more than 25% by weight of coal refuse.]~~

**(1) Applicability. Except as provided in section (3) of this rule, this rule applies to the following facilities for which construction or modification is commenced after September 18, 1978:**

**(a) each electric utility steam generating unit that is capable of combusting more than 250 million Btu/hour heat input of fossil fuel (either alone or in combination with any other fuel); and**

**(b) each electric utility combined cycle gas turbine that is capable of combusting more than 250 million Btu/hour heat input of fossil fuel in the steam generator, only for emissions resulting from combustion of fuels in the steam generating unit.**

**(2) Requirements. Facilities subject to this rule shall comply with 40 CFR Part 60, Subpart Da, as adopted under OAR 340-25-535.**

**(3) Special provisions. The following changes shall not subject a facility to this rule:**

**(a) Any change to an existing fossil-fuel-fired steam generating unit to accommodate the use of combustible materials, other than fossil fuels; or**

**(b) Any change to an existing steam generating unit originally designed to fire gaseous or liquid fossil fuels, to accommodate the use of any other fossil or nonfossil fuel.**

**(4) Definitions. As used in this rule:**

**(a) "Combined cycle gas turbine" means a stationary turbine combustion system where heat from the turbine exhaust gases is recovered by a steam generating unit.**

**(b) "Electric utility steam generating unit" means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the unit.**

**(c) "Fossil fuel" means natural gas, petroleum, coal, and any form of solid, liquid, or gaseous fuel derived from such materials for the purpose of creating useful heat.**

**(d) "Steam generating unit" means any furnace, boiler, or other device used for combusting fuel for the purpose of producing steam, including fossil fuel-fired steam generators associated with combined cycle gas turbines but excluding nuclear steam generators.**

**[Note: Gas turbine emissions are subject OAR 340-25-645]**

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

Stat. Auth.: ORS Ch. 468 & 468A  
Hist.: DEQ 16-1981, f. & ef. 5-6-81

## Standards of Performance for the Phosphate Fertilizer Industry: Superphosphoric Acid Plants

### 340-25-611

- (1) Applicability. This rule applies to each superphosphoric acid plant with a design capacity of more than 15 tons of equivalent  $P_2O_5$  feed per calendar day for which construction or modification commenced after October 22, 1974, including any combination of evaporators, hot wells, acid sumps, and cooling tanks.
- (2) Requirements. Facilities subject to this rule shall comply with 40 CFR Part 60, Subpart U, as adopted under OAR 340-25-535.
- (3) Definitions. As used in this rule:
  - (a) "Equivalent  $P_2O_5$ " feed means the quantity of phosphorus, expressed as phosphorous pentoxide, fed to the process.
  - (b) "Superphosphoric acid plant" means any facility which concentrates wet-process phosphoric acid to 66 percent or greater  $P_2O_5$  content by weight for eventual consumption as a fertilizer.

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

Stat. Auth.: ORS Ch. 468 & 468A

## Standards of Performance for the Phosphate Fertilizer Industry: Diammonium Phosphate Plants

### 340-25-612

- (1) Applicability. This rule applies to each granular diammonium phosphate plant with a design capacity of more than 15 tons of equivalent  $P_2O_5$  feed per calendar day for which construction or modification commenced after October 22, 1974, and includes any combination of reactors, granulators, dryers, coolers, screens, and mills.
- (2) Requirements. Facilities subject to this rule shall comply with 40 CFR Part 60, Subpart V, as adopted under OAR 340-25-535.
- (3) Definitions. As used in this rule:
  - (a) "Equivalent  $P_2O_5$  feed" means the quantity of phosphorus, expressed as phosphorous pentoxide, fed to the process.
  - (b) "Granular diammonium phosphate plant" means any plant manufacturing granular diammonium phosphate by reacting phosphoric acid with ammonia.

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

## Standards of Performance for the Phosphate Fertilizer Industry: Triple Superphosphate Plants

### 340-25-613

- (1) Applicability. This rule applies to each triple superphosphate plant with a design capacity of more than 15 tons of equivalent P<sub>2</sub>O<sub>5</sub> feed per calendar day for which construction or modification commenced after October 22, 1974, including any combination of mixers, curing belts (dens), reactors, granulators, dryers, cookers, screens, mills, and facilities which store run-of-pile triple superphosphate.
- (2) Requirements. Facilities subject to this rule shall comply with 40 CFR Part 60, Subpart W, as adopted under OAR 340-25-535.
- (3) Definitions. As used in this rule:
  - (a) "Equivalent P<sub>2</sub>O<sub>5</sub> feed" means the quantity of phosphorus, expressed as phosphorous pentoxide, fed to the process.
  - (b) "Run-of-pile triple superphosphate" means any triple superphosphate that has not been processed in a granulator and is composed of particles, at least 25 percent by weight of which (when not caked) will pass through a 16 mesh screen.
  - (c) "Triple superphosphate plant" means any facility manufacturing triple superphosphate by reacting phosphate rock with phosphoric acid. A run-of-pile triple superphosphate plant includes curing and storing.

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

## Standards of Performance for the Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities

### 340-25-614

- (1) Applicability. This rule applies to each granular triple superphosphate storage facility for which construction or modification commenced after October 22, 1974, including any combination of storage or curing piles, conveyors, elevators, screens, and mills.
- (2) Requirements. Facilities subject to this rule shall comply with 40 CFR Part 60, Subpart X, as adopted under OAR 340-25-535.
- (3) Definitions. As used in this rule, "Granular triple superphosphate storage facility" means any facility curing or storing granular triple superphosphate.

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

## Standards of Performance for Coal Preparation Plants

~~340-25-615 [The pertinent federal rules are 40 CFR 60.250 to 60.254, also known as Subpart Y. These standards, summarizing the federal standards set forth in Subpart Y, for Particulate Matter and for Visible Emissions apply only to coal preparation plants which process more than 200 tons of coal per day. Standards for Particulate Matter: No owner or operator shall cause to be discharged into the atmosphere from a:~~

- ~~(1) Thermal dryer, gases which:
  - ~~(a) Contain particulate matter in excess of 0.070 g/dsem (0.031 gr/dsef);~~
  - ~~(b) Exhibit 20 percent opacity or greater.~~~~
- ~~(2) Pneumatic coal-cleaning equipment, gases which:
  - ~~(a) Contain particulate matter in excess of 0.040 g/dsem (0.018 gr/dsef);~~
  - ~~(b) Exhibit 10 percent opacity or greater.]~~~~
- (1) Applicability. This rule applies to the following facilities in coal preparation plants which process more than 200 tons per day, and for which construction or modification commenced after October 24, 1974:**
  - (a) thermal dryers;**
  - (b) pneumatic coal-cleaning equipment (air tables);**
  - (c) coal processing and conveying equipment (including breakers and crushers);**
  - (d) coal storage systems; and**
  - (e) coal transfer and loading systems.**
- (2) Requirements. Facilities subject to this rule shall comply with 40 CFR Part 60, Subpart Y, as adopted under OAR 340-25-535.**
- (3) Definitions. As used in this rule:**
  - (a) "Coal" means all solid fossil fuels classified as anthracite, bituminous, subbituminous, or lignite by ASTM Designation D388-77.**
  - (b) "Coal preparation plant" means any facility (excluding underground mining operations) which prepares coal by one or more of the following processes: breaking, crushing, screening, wet or dry cleaning, and thermal drying.**
  - (c) "Coal processing and conveying equipment" means any machinery used to reduce the size of coal or to separate coal from refuse, and the equipment used to convey coal to or remove coal and refuse from the machinery. This includes, but is not limited to, breakers, crushers, screens, and conveyor belts.**
  - (d) "Coal storage system" means any facility used to store coal except for open storage piles.**
  - (e) "Pneumatic coal-cleaning equipment" means any facility which classifies bituminous coal by size or separates bituminous coal from refuse by application of air stream(s).**
  - (f) "Thermal dryer" means any facility in which the moisture content of bituminous coal is reduced by contact with a heated gas stream which is exhausted to the atmosphere.**
  - (g) "Transfer and loading systems" means any facility used to transfer and load coal for shipment.**

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



## **Standards of Performance for the Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants**

### **340-25-618**

- (1) Applicability. This rule applies each wet-process phosphoric acid plant with a design capacity of more than 15 tons of equivalent  $P_2O_5$  feed per calendar day for which construction or modification commenced after October 22, 1974, including any combination of reactors, filters, evaporators, and hot wells.**
- (2) Requirements. Facilities subject to this rule shall comply with 40 CFR Part 60, Subpart T, as adopted under OAR 340-25-535.**
- (3) Definitions. As used in this rule:**
  - (a) "Equivalent  $P_2O_5$ " feed means the quantity of phosphorus, expressed as phosphorous pentoxide, fed to the process.**
  - (b) "Wet-process phosphoric acid plant" means any facility manufacturing phosphoric acid by reacting phosphate rock and acid.**

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

**Stat. Auth.: ORS Ch. 468 & 468A**

## **Standards of Performance for Ferroalloy Production Facilities**

~~340-25-620 [The pertinent federal rules are 40 CFR 60.260 to 60.266, also known as Subpart Z. These standards, summarizing the federal standards set forth in Subpart Z, for Ferroalloy plants are applicable only to electric submerged arc furnaces and to dust handling equipment, built or modified after October 21, 1974:~~

- ~~(1) Standard for Particulate Matter and Visible Emissions from Electric Arc Furnaces. No owner or operator shall cause to be discharged into the atmosphere from any electric submerged arc furnace any gases which:~~
  - ~~(a) Exit from a control device and contain particulate matter in excess of 0.45 Kg/MW hr (0.99 lb/MW hr) while silicon metal, ferrosilicon, calcium silicon, or silicomanganese zirconium is being produced;~~
  - ~~(b) Exit from a control device and contain particulate matter in excess of 0.23 Kg/MW hr (0.51 lb/MW hr) while high carbon ferrochrome, charge chrome, standard ferromanganese, silico manganese, calcium carbide, ferrochrome silicon, ferromanganese silicon, or silvery iron is being produced;~~
  - ~~(c) Exit from a control device and exhibit 15 percent opacity or greater;~~
  - ~~(d) Escape the capture system at the tapping station and are visible for more than 40 percent of each tapping period, except a blowing tap is exempted.~~
- ~~(2) Standard for Visible Emissions From Dust Handling Equipment. No owner or operator shall cause to be discharged into the atmosphere from any dust handling equipment any gases which exhibit 10 percent opacity or~~

greater.

- ~~(3) Standard for Carbon Monoxide. No owner or operator shall cause to be discharged into the atmosphere from any electric submerged arc furnace any gases which contain, on a dry basis, 20 or greater volume percent of carbon monoxide.]~~
- ~~(1) Applicability. This rule applies to the following facilities for which construction or modification commenced after October 21, 1974:~~
- ~~(a) electric submerged arc furnaces which produce silicon metal, ferrosilicon, calcium silicon, silicomanganese zirconium, ferrochrome silicon, silvery iron, high-carbon ferrochrome, charge chrome, standard ferromanganese, silicomanganese, ferromanganese silicon, or calcium carbide; and~~
- ~~(b) dust-handling equipment.~~
- ~~(2) Requirements. Ferroalloy production facilities subject to this rule shall comply with 40 CFR Part 60, Subpart Z, as adopted under OAR 340-25-535.~~
- ~~(3) Definitions. As used in this rule:~~
- ~~(a) "Calcium carbide" means material containing 70 to 85 percent calcium carbide by weight.~~
- ~~(b) "Calcium silicon" means that alloy as defined by ASTM Designation A495-76.~~
- ~~(c) "Charge chrome" means that alloy containing 52 to 70 percent by weight chromium, 5 to 8 percent by weight carbon, and 3 to 6 percent by weight silicon.~~
- ~~(d) "Dust-handling equipment" means any equipment used to handle particulate matter collected by the air pollution control device (and located at or near such device) serving an electric submerged arc furnace subject to this rule.~~
- ~~(e) "Electric submerged arc furnace" means any furnace in which electrical energy is converted to heat energy by transmission of current between electrodes partially submerged in the furnace charge.~~
- ~~(f) "Ferrochrome silicon" means that alloy as defined by American Society of Testing & Materials (ASTM) Designation A482-76.~~
- ~~(g) "Ferromanganese silicon" means that alloy containing 63 to 66 percent by weight manganese, 28 to 32 percent by weight silicon, and a maximum of 0.08 percent by weight carbon.~~
- ~~(h) "Ferrosilicon" means that alloy as defined by ASTM Designation A100-69 grades A, B, C, D, and E, which contains 50 or more percent by weight silicon.~~
- ~~(i) "High-carbon ferrochrome" means that alloy as defined by ASTM Designation A101-73.~~
- ~~(j) "Silicomanganese" means that alloy as defined by ASTM Designation A483-64.~~
- ~~(k) "Silicomanganese zirconium" means that alloy containing 60 to 65 percent by weight silicon, 1.5 to 2.5 percent by weight calcium, 5 to 7 percent by weight zirconium, 0.75 to 1.25 percent by weight aluminum, 5 to 7 percent by weight manganese, and 2 to 3 percent by weight barium.~~
- ~~(l) "Silvery iron" means that alloy as defined by ASTM Designation A100-69, which contains less than 30 percent silicon.~~

- (m) "Silicon metal" means any silicon alloy containing more than 96 percent silicon by weight.
- (n) "Standard ferromanganese" means that alloy as defined by ASTM Designation A99-76.

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

Stat. Auth.: ORS Ch. 468 & 468A  
 Hist.: DEQ 16-1981, f. & ef. 5-6-81

## **Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974 and On or Before August 17, 1983**

~~340-25-625 [The pertinent federal rules are 40 CFR 60.270 to 60.276a, also known as Subpart AA and AAa. These standards, summarizing the federal standards set forth in Subpart AA and AAa, for Steel Plants are applicable only to electric arc furnaces, argon oxygen decarburization vessels, and dust handling equipment, built or modified after October 21, 1974:~~

- ~~(1) No owner or operator shall cause to be discharged into the atmosphere from an electric arc furnace any gases which:
 
  - ~~(a) Exit from a control device and contain particulate matter in excess of 12 mg/dsem (0.0052 gr/dsef);~~
  - ~~(b) Exit from a control device and exhibit 3.0 percent opacity or greater;~~
  - ~~(c) Exit from a shop and, due solely to operations of any electric arc furnaces or argon oxygen decarburization vessels, exhibit 6 percent or greater shop opacity, except that if constructed before August 17, 1983 then shop opacity must be only less than 20 percent during charging periods and only less than 40 percent during tapping periods.~~~~

- ~~(2) Standard for Visible Emissions From Dust Handling Equipment. No owner or operator shall cause to be discharged into the atmosphere from dust handling equipment any gases which exhibit 10 percent opacity or greater. ]~~

- (1) Applicability. This rule applies to the following facilities in steel plants that produce carbon, alloy, or specialty steels for which construction, modification or reconstruction commenced after October 21, 1974, and on or before August 17, 1983:

- (a) electric arc furnaces; and
- (b) dust-handling systems.

- (2) Requirements. Facilities subject to this rule shall comply with 40 CFR Part 60, Subpart AA, as adopted under OAR 340-25-535.

- (3) Definitions. As used in this rule:

- (a) "Dust-handling equipment" means any equipment used to handle particulate matter collected by the air pollution control device (and located at or near such device) serving an electric arc furnace subject to this rule.
- (b) "Electric arc furnace" or "EAF" means a furnace that produces molten steel and heats the charge materials with electric arcs from carbon electrodes.

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 16-1981, f. & ef. 5-6-81; DEQ 15-1985, f. & ef. 10-21-85; AQ 1-1993, f. & ef. 3-9-93

## Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 7, 1983

### 340-25-626

#### (1) Applicability.

(a) Except as provided in subsection (b) of this section, this rule applies to the following facilities in steel plants that produce carbon, alloy, or specialty steels for which construction, modification, or reconstruction commenced after August 17, 1983:

(A) electric arc furnaces;

(B) argon-oxygen decarburization vessels; and

(C) dust-handling systems.

(b) Furnaces that continuously feed direct-reduced iron ore pellets as the primary source of iron are not subject to this rule.

#### (2) Requirements. Facilities subject to this rule shall comply with 40 CFR Part 60, Subpart AAa, as adopted under OAR 340-25-535.

#### (4) Definitions. As used in this rule:

(a) "Argon-oxygen decarburization vessels" or "AOD vessel" means any closed-bottom, refractory-lined converter vessel with submerged tuyeres through which gaseous mixtures containing argon and oxygen or nitrogen may be blown into molten steel for further refining.

(b) "Dust-handling system" means equipment used to handle particulate matter collected by the control device for an electric arc furnace or AOD vessel subject to this rule. For the purposes of this rule, the dust-handling system shall consist of the control device dust hoppers, the dust-conveying equipment, any central dust storage equipment, the dust-treating equipment, dust transfer equipment (from storage to truck), and any secondary control devices used with the dust transfer equipment.

(c) "Electric arc furnace" or "EAF" means a furnace that produces molten steel and heats the charge materials with electric arcs from carbon electrodes. An electric arc furnace shall consist of the furnace shell and roof and the transformer.

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

Stat. Auth.: ORS Ch. 468 & 468A

## **Standards of Performance for Kraft Pulp Mills**

~~340-25-630 [The pertinent federal rules are 40 CFR 60.280 to 60.286, also known as Subpart BB. The standards for kraft pulp mills' facilities, summarizing the~~

federal standards set forth in **Subpart BB**, are applicable only to a recovery furnace, smelt dissolving tank, lime kiln, digester system, brown stock washer system, multiple effect evaporator system, and condensate stripper system built or modified after September 24, 1976:

- (1) ~~Standard for Particulate Matter: No owner or operator shall cause to be discharged into the atmosphere particulate matter from:~~
- (a) ~~Any recovery furnace:~~
    - (A) ~~In excess of 0.10 g/dsem (0.044 gr/dsef) corrected to 8 percent oxygen; or~~
    - (B) ~~Exhibit 35 percent opacity or greater.~~
  - (b) ~~Any smelt dissolving tank in excess of 0.10 g/Kg black liquor solids, dry weight (0.20 lb/ton);~~
  - (c) ~~Any lime kiln:~~
    - (A) ~~In excess of 0.15 g/dsem (0.067 gr/dsef) corrected to 10 percent oxygen, when gaseous fossil fuel is burned;~~
    - (B) ~~In excess of 0.30 g/dsem (0.13 gr/dsef) corrected to 10 percent oxygen, when liquid fossil fuel is burned.~~
- (2) ~~Standard for Total Reduced Sulfur: No owner or operator shall cause to be discharged in the atmosphere Total Reduced Sulfur compounds, (TRS), which are hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide from:~~
- (a) ~~Any digester system, brown stock washer system, multiple effect evaporator system, or condensate stripper system in excess of 5.0 ppm by volume on a dry basis, corrected to the actual oxygen content of the untreated gas stream;~~
  - (b) ~~Any straight kraft recovery furnace in excess of 5.0 ppm by volume on a dry basis corrected to 8 percent oxygen;~~
  - (c) ~~Any cross recovery furnace in excess of 25 ppm by volume on a dry basis, corrected to 8.0 percent oxygen;~~
  - (d) ~~Any smelt dissolving tank in excess of 0.016 g/Kg black liquor solids, dry weight (0.033 lb/ton);~~
  - (e) ~~Any lime kiln in excess of 8.0 ppm by volume on a dry basis, corrected to 10 percent oxygen.]~~

**(1) Applicability. Except as provided in section (3) of this rule and 40 CFR 60.283(a)(1)(iv), this rule applies to the following facilities in kraft pulp mills for which construction or modification commenced after September 24, 1976:**

- (a) Digester system;**
- (b) brown stock washer system;**
- (c) multiple-effect evaporator system;**
- (d) recovery furnace;**
- (e) smelt dissolving tank;**
- (f) lime kiln; and**
- (g) condensate stripper system.**

**(2) Requirements. Facilities subject to this rule shall comply with 40 CFR Part 60, Subpart BB, as adopted under OAR 340-25-535.**

**(3) Special Provisions. In pulp mills where kraft pulping is combined with neutral sulfite semichemical pulping, this rule applies when any portion of the material charged to an affected facility is produced by the kraft pulping**

- operation.
- (4) Definitions. As used in this rule:
- (a) "Brown stock washer system" means brown stock washers and associated knotters, vacuum pumps, and filtrate tanks used to wash the pulp following the digestion system. Diffusion washers are excluded from this definition.
  - (b) "Condensate stripper system" means a column, and associated condensers, used to strip, with air or steam, TRS compounds from condensate streams from various processes within a kraft pulp mill.
  - (c) "Digester system" means each continuous digester or each batch digester used for the cooking of wood in white liquor, and associated flash tank(s), blow tank(s), chip steamer(s), and condenser(s).
  - (d) "Kraft pulp mill" means any stationary source which produces pulp from wood by cooking (digesting) wood chips in a water solution of sodium hydroxide and sodium sulfide (white liquor) at high temperature and pressure. Regeneration of the cooking chemicals through a recovery process is also considered part of kraft pulp mill.
  - (e) "Lime kiln" means a unit used to calcine lime mud, which consists primarily of calcium carbonate, into quicklime, which is calcium oxide.
  - (f) "Multiple-effect evaporator system" means the multiple-effect evaporators and associated condenser(s) and hotwell(s) used to concentrate the spent cooking liquid that is separated from the pulp (black liquor).
  - (g) "Neutral sulfite semichemical pulping operation" means any operation in which pulp is produced from wood by cooking (digesting) wood chips in a solution of sodium sulfite and sodium bicarbonate, followed by mechanical defibrating (grinding).
  - (h) "Recovery furnace" means either a straight kraft recovery furnace or a cross recovery furnace, and includes the direct-contact evaporator for a direct-contact furnace.
  - (i) "Smelt dissolving tank" means a vessel used for dissolving the smelt collected from the recovery furnace.
  - (j) "Total reduced sulfur" or "TRS" means the sum of the sulfur compounds hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide, that are released during the kraft pulping operation and measured by EPA Reference Method 16.

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 16-1981, f. & ef. 5-6-81; DEQ 15-1985, f. & ef. 10-21-85; DEQ 19-1986, f. & ef. 11-7-86; AQ 1-1993, f. & ef. 3-9-93

## **Standards of Performance for Glass Manufacturing Plants**

~~340-25-635~~ ~~{The pertinent federal rules are 40 CFR 60.290 to 60.296, also known as Subpart CC. The following particulate matter standard, summarizing the federal standards set forth in Subpart CC, applies to each glass melting furnace which commenced construction or modification after June 15, 1979, at glass manufacturing~~

~~plants but does not apply to hand glass melting furnaces, furnaces with a design capacity of less than 4,550 kilograms of glass per day, or to all electric melters. Standard for Particulate Matter: No owner or operator of a glass melting furnace subject to this rule shall cause to be discharged into the atmosphere from a glass melting furnace particulate matter exceeding the rates specified in 40 CFR 60.292.]~~

**(1) Applicability.**

**(a) Except as provided in subsection (b) of this section, this rule applies to each glass melting furnace for which construction or modification commenced after June 15, 1979.**

**(b) The following facilities are not subject to this rule:**

**(A) hand glass melting furnaces;**

**(B) glass melting furnaces designed to produce less than 4,550 kilograms of glass per day; and**

**(C) all-electric melters.**

**(2) Requirements. Glass melting furnaces subject to this rule shall comply with 40 CFR Part 60, Subpart CC, as adopted under OAR 340-25-535.**

**(3) Definitions. As used in this rule:**

**(a) "All-electric melters" means a glass melting furnace in which all the heat required for melting is provided by electric current from electrodes submerged in the molten glass, although some fossil fuel may be charged to the furnace as raw material only.**

**(b) "Glass melting furnace" means a unit comprising a refractory vessel in which raw materials are charged, melted at high temperature, refined, and conditioned to produce molten glass. The unit includes foundations, superstructure and retaining walls, raw material charger systems, heat exchangers, melter cooling system, exhaust system, refractory brick work, fuel supply and electrical boosting equipment, integral control systems and instrumentation, and appendages for conditioning and distributing molten glass to forming apparatuses. The forming apparatuses, including the float bath used in flat glass manufacturing and flow channels in wool fiberglass and textile fiberglass manufacturing, are not considered part of the glass melting furnace.**

**(c) "Hand glass melting furnace" means a glass melting furnace where the molten glass is removed from the furnace by a glassworker using a blowpipe or a pontil.**

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

Stat. Auth.: ORS Ch. 468 & 468A  
Hist.: DEQ 16-1981, f. & ef. 5-6-81

## **Standards of Performance for Grain Elevators**

~~340-25-640 [The pertinent federal rules are 40 CFR 60.300 to 60.304, also known as Subpart DD. The following emission standards, summarizing the federal standards set forth in Subpart DD, apply to any grain terminal elevator (over 2.5 million bushel storage capacity) or any grain storage elevator (over 1 million bushel~~

storage capacity) which commenced construction, modification, or reconstruction after August 3, 1978. Standards for Particulate Matter:

- ~~(1) On and after the 60th day of achieving the maximum production rate, but no later than 180 days after initial startup, no owner or operator shall cause to be discharged into the atmosphere any gases or fugitive dusts which exhibit opacity greater than:~~
- ~~(a) Zero percent opacity from any column dryer with column plate perforation exceeding 2.4 mm (0.094 inch) diameter;~~
  - ~~(b) Zero percent opacity from any rack dryer in which exhaust gases pass through a screen filter coarser than 50 mesh;~~
  - ~~(c) 5.0 percent opacity from any individual truck unloading station, railcar unloading station, or railcar loading station;~~
  - ~~(d) Zero percent opacity from any grain handling operation;~~
  - ~~(e) 10.0 percent opacity from any truck loading station;~~
  - ~~(f) Any barge or ship loading station which exhibits greater than 20 percent opacity.~~
- ~~(2) After initial startup, no owner or operator shall cause to be discharged into the atmosphere from any affected facility, except a grain dryer, any process emission which:~~
- ~~(a) Contains particulate matter in excess of 0.023 g/dsem (0.010 gr/dsef);~~
  - ~~(b) Exhibits greater than zero percent opacity.~~
- ~~(3) The owner or operator of any barge or ship unloading station shall operate as follows:~~
- ~~(a) The unloading leg shall be enclosed from the top (including the receiving hopper) to the center line of the bottom pulley and ventilation to a control device shall be maintained on both sides of the leg and the grain receiving hopper;~~
  - ~~(b) The total rate of air ventilated shall be at least 32.1 actual cubic meters per cubic meter of grain handling capacity (ca. 40 ft<sup>3</sup>/bu);~~
  - ~~(c) Rather than meet the requirements of subsections (a) and (b) of this section the owner or operator may use other methods of emission control if it is demonstrated to the Department's satisfaction that they would reduce emissions of particulate matter to the same level or less.]~~
- (1) Applicability. Except as provided in 40 CFR 60.304(b), this rule applies to each of the following facilities at any grain terminal elevator or any grain storage elevator, for which construction, modification, or reconstruction commenced after August 3, 1978:**
- (a) truck loading station;**
  - (b) truck unloading station;**
  - (c) barge and ship loading station;**
  - (d) barge and ship unloading station;**
  - (e) railcar loading station;**
  - (f) railcar unloading station;**
  - (g) grain dryer; and**
  - (h) all grain handling operations.**
- (2) Requirements. Facilities subject to this rule shall comply with 40 CFR Part 60, Subpart DD, as adopted under OAR 340-25-535.**
- (3) Definitions. As used in this rule:**
- (a) "Grain" means corn, wheat, sorghum, rice, rye, oats, barley, and**



soybeans.

- (b) "Grain elevator" means any plant or installation at which grain is unloaded, handled, cleaned, dried, stored, or loaded.
- (c) "Grain storage elevator" means any grain elevator located at any wheat flour mill, wet corn mill, dry corn mill (human consumption), rice mill, or soybean oil extraction plant which has a permanent grain storage capacity of 1 million bushels.
- (d) "Grain handling operations" include bucket elevators or legs (excluding legs used to unload barges or ships), scale hoppers and surge bins (garners), turn heads, scalpers, cleaners, trippers, and the headhouse and other such structures.
- (e) "Grain terminal elevator" means any grain elevator which has a permanent storage capacity of more than 2.5 million U.S. bushels, except those located at animal food manufacturers, pet food manufacturers, cereal manufacturers, breweries, and livestock feedlots.
- (f) "Rail car" means railroad hopper car or boxcar.

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

Stat. Auth.: ORS Ch. 468 & 468A  
Hist.: DEQ 16-1981, f. & ef. 5-6-81

## Standards of Performance for Metal Furniture Surface Coating

340-25-642

- ~~{(1) The pertinent federal rules are 40 CFR 60.310 to 60.316, also known as Subpart EE. The following emission standard, summarizing the federal standard set forth in Subpart EE, applies to metal furniture surface coating operations in which organic coatings are applied which commenced construction, modification, or reconstruction after November 28, 1980, that use 3,842 liters of coating (as applied) or more per year.~~
- ~~(2) Standard for Volatile Organic Compounds: No owner or operator shall cause to be discharged into the atmosphere Volatile Organic Compounds in excess of 0.90 kilograms per liter of coating solids applied.}~~
- (1) Applicability.
  - (a) Except as provided for in subsection (b) of this section, this rule applies to each metal furniture surface coating operation in which organic coatings are applied and for which construction, modification, or reconstruction commenced after November 28, 1980.
  - (b) Any metal furniture surface coating operation which uses less than 3,842 liters of coating (as applied) per year, and keeps purchase or inventory records or other data necessary to substantiate annual coating usage at the facility for at least 2 years, is not subject to any other provisions of this rule.
- (2) Requirements. Metal furniture surface coating operations subject to this rule shall comply with 40 CFR Part 60, Subpart EE, as adopted under OAR 340-25-535.
- (3) Definitions. As used in this rule, "Organic coating" means any coating used

in a surface coating operation, including dilution solvents, from which volatile organic compound emissions occur during the application or the curing process. As used in this rule, this term does not include powder coatings.

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 17-1983, f. & ef. 10-19-83; DEQ 19-1986, f. & ef. 11-7-86

## Standards of Performance for Gas Turbines

~~340-25-645 [The pertinent federal rules are 40 CFR 60.330 to 60.335, also known as Subpart GG. The following emission standards, summarizing the federal standards set forth in Subpart GG, apply to any stationary gas turbine with a heat input at peak load equal to or greater than 10.7 gigajoules per hour (1,000 HP) for which construction, modification, or reconstruction was commenced after October 3, 1977:~~

~~(1) Standard for Nitrogen Oxides. No owner or operator subject to the provisions of this rule shall cause to be discharged into the atmosphere from any stationary gas turbine, nitrogen oxides in excess of the rates specified in 40 CFR 60.332.~~

~~(2) Standards for Sulfur Dioxide. Owners or operators shall:~~

~~(a) Not cause to be discharged into the atmosphere from any gas turbine any gases which contain sulfur dioxide in excess of 150 ppm by volume at 15 percent oxygen, on a dry basis; or~~

~~(b) Not burn in any gas turbine any fuel which contains sulfur in excess of 0.80 percent by weight.]~~

(1) Applicability. This rule applies to all stationary gas turbines with a heat input at peak load equal to or greater than 10.7 gigajoules per hour, based on the lower heating value of the fuel fired, for which construction, modification, or reconstruction commenced after October 3, 1977 except as provided in 40 CFR 60.332(e) and (j).

(2) Requirements. Stationary gas turbines subject to this rule shall comply with 40 CFR Part 60, Subpart GG, as adopted under OAR 340-25-535.

(3) Definitions. As used in this rule, "Stationary gas turbine" means any simple cycle gas turbine, regenerative cycle gas turbine or any gas turbine portion of a combined cycle steam/electric generating system that is not self propelled. It may, however, be mounted on a vehicle for portability.

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 16-1981, f. & ef. 5-6-81; DEQ 22-1982, f. & ef. 10-21-82; DEQ 24-1989, f. & cert. ef. 10-26-89; AQ 1-1993, f. & ef. 3-9-93

## Standards of Performance for Lime Manufacturing Plants

~~340-25-647 [The pertinent federal rules are 40 CFR 60.340 to 60.344, also~~

known as ~~Subpart HH~~. The following standards set forth in ~~Subpart HH~~ apply to each rotary lime kiln used in the manufacture of lime, except those at kraft pulp mills, for which construction or modification of any facility affected by this rule commenced after May 3, 1977. Standards for Particulate: No owner or operator subject to the provisions of this rule shall cause to be discharged into the atmosphere from any rotary lime kiln any gases which:

- ~~(1) Contain particulate matter in excess of 0.30 kilogram per megagram (0.60 lb/ton) of stone feed.~~
- ~~(2) Exhibit greater than 15 percent opacity when exiting from a dry emission control device.~~

**(1) Applicability.**

- (a) Except as provided for in subsection (b) of this section, this rule applies to each rotary lime kiln used in the manufacture of lime for which construction or modification commenced after May 3, 1977.
- (b) Facilities used in the manufacture of lime at kraft pulp mills are not subject to this rule.

**(2) Requirements. Facilities subject to this rule shall comply with 40 CFR Part 60, Subpart HH, as adopted under OAR 340-25-535.**

**(3) Definitions. As used in this rule:**

- (a) "Lime manufacturing plant" means any plant which uses a rotary lime kiln to produce lime product from limestone by calcination.
- (b) "Rotary lime kiln" means a unit with an inclined rotating drum that is used to produce a lime product from limestone by calcination.

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 15-1985, f. & ef. 10-21-85; AQ 1-1993, f. & ef. 3-9-93

## Standards of Performance for Lead-Acid Battery Manufacturing Plants

~~340-25-650~~ [The pertinent federal rules are ~~40 CFR 60.370 to 60.374~~, also known as ~~Subpart KK~~. The following standards set forth in ~~Subpart KK~~ apply to any lead acid battery manufacturing plant that produces or has the design capacity to produce in one day (24 hours) batteries containing an amount of lead equal to or greater than 5.9 Mg (6.5 tons), for which construction or modification of any facility affected by this rule commenced after January 14, 1980. Standards for Lead: No owner or operator subject to the provisions of this rule shall cause to be discharged into the atmosphere any gases from:

- ~~(1) Any grid casting facility that contain lead in excess of 0.40 milligram of lead per dry standard cubic meter of exhaust (0.000176 gr/dsef).~~
- ~~(2) Any paste mixing facility that contain in excess of 1.00 milligram of lead per dry standard cubic meter of exhaust (0.00044 gr/dsef).~~
- ~~(3) Any three process operation facility that contain in excess of 1.00 milligram of lead per dry standard cubic meter of exhaust (0.00044 gr/dsef).~~
- ~~(4) Any lead oxide manufacturing facility that contain in excess of 5.0 milligrams of lead per kilogram of lead feed (0.010 lb/ton).~~

- ~~(5) Any lead reclamation facility that contain in excess of 4.50 milligrams of lead per dry standard cubic meter of exhaust (0.00198 gr/dsef).~~
- ~~(6) Any other lead-emitting operation that contain in excess of 1.00 milligram per dry standard cubic meter of exhaust (0.00044 gr/dsef).~~
- ~~(7) Any affected facility other than a lead reclamation facility with greater than 0 percent opacity.~~
- ~~(8) Any lead reclamation facility with greater than 5 percent opacity.]~~
- (1) Applicability. This rule applies to the following facilities at any lead-acid battery manufacturing plant that produces or has the design capacity to produce in one day (24 hours) batteries containing an amount of lead equal to or greater than 6.5 tons and for which construction or modification commenced after January 14, 1980:**
- (a) Grid casting facility;**
- (b) Paste mixing facility;**
- (c) Three-process operation facility;**
- (d) Lead oxide manufacturing facility;**
- (e) Lead reclamation facility;**
- (f) Other lead-emitting operations.**
- (2) Requirements. Facilities subject to this rule shall comply with 40 CFR Part 60, Subpart KK, as adopted under OAR 340-25-535.**
- (3) Definitions. As used in this rule:**
- (a) "Grid casting facility" means the facility which includes all lead melting pots and machines used for casting the grid used in battery manufacturing.**
- (b) "Lead-acid battery manufacturing plant" means any plant that produces a storage battery using lead and lead compounds for the plates and sulfuric acid for the electrolyte.**
- (c) "Lead oxide manufacturing facility" means a facility that produces lead oxide from lead, including product recovery.**
- (d) "Lead reclamation facility" means the facility that remelts lead scrap and casts it into lead ingots for use in the battery manufacturing process, and which is not a furnace subject to OAR 340-25-590.**
- (e) "Other lead-emitting operation" means any lead-acid battery manufacturing plant operation from which lead emissions are collected and ducted to the atmosphere and which is not part of a grid casting, lead oxide manufacturing, lead reclamation, paste mixing, or three-process operation facility, or a furnace subject to OAR 340-25-590.**
- (f) "Paste mixing facility" means the facility including lead oxide storage, conveying, weighing, metering, and charging operations; paste blending, handling, and cooling operations; and plate pasting, takeoff, cooling, and drying operations.**
- (g) "Three-process operation facility" means the facility including those processes involved with plate stacking, burning or strap casting, and assembly of elements into the battery case.**

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 22-1982, f. & ef. 10-21-82; AQ 1-1993, f. & ef. 3-9-93

## Standards of Performance for Metallic Mineral Processing Plants

~~340-25-652 [The pertinent federal rules are 40 CFR 60.380 to 60.386 also known as Subpart LL. The following emission standards, summarizing the federal standards set forth in Subpart LL, apply to the following affected facilities in metallic mineral processing plants; each crusher and screen in open pit mines; at the mill or concentrator, each crusher, screen, bucket elevator, conveyor belt transfer point, thermal dryer, product packaging station, storage bin, enclosed storage area, truck loading station, truck unloading station, railcar loading station, and railcar unloading station. These facilities are affected only if construction, or modification, commenced after August 24, 1982, and if they are not located in underground mines. Standards for Particulate Matter: No owner or operator shall cause to be discharged into the atmosphere from any affected facility:~~

- ~~(1) Any stack emissions that contain particulate matter in excess of 0.05 grams per dry standard cubic meter (0.02 gr/dscf);~~
- ~~(2) Any stack emissions that exhibit greater than 7 percent opacity;~~
- ~~(3) Any process fugitive emissions that exhibit greater than 10 percent opacity.]~~

~~(1) Applicability.~~

~~(a) Except as provided for in subsection (b) and (c) of this section, this rule applies to the following facilities in metallic mineral processing plants for which construction or modification commenced after August 24, 1982:~~

~~(A) each crusher and screen in open-pit mines; and~~

~~(B) each crusher, screen, bucket elevator, conveyor belt transfer point, thermal dryer, product packaging station, storage bin, enclosed storage area, truck loading station, truck unloading station, rail car loading station, and rail car unloading station at the mill or concentrator.~~

~~(b) Facilities located in underground mines are not subject to this rule.~~

~~(c) At uranium ore processing plants, all facilities subsequent to and including the beneficiation of uranium ore are not subject to this rule.~~

~~(2) Requirements. Facilities subject to this rule shall comply with 40 CFR Part 60, Subpart LL, as adopted under OAR 340-25-535.~~

~~(3) Definitions. As used in this rule:~~

~~(a) "Crusher" means a machine used to crush any metallic minerals and includes feeders or conveyors located immediately below the crushing surfaces. Crushers include, but are not limited to, the following types: jaw, gyratory, cone, and hammermill.~~

~~(b) "Metallic mineral processing plant" means any combination of equipment that produces metallic mineral concentrates from ore. Metallic mineral processing commences with the mining of ore and includes all operations either up to and including the loading of wet or dry concentrates or solutions of metallic minerals for transfer to facilities at non-adjacent locations that will subsequently process metallic concentrates into purified metals (or other products), or up to and including all material transfer and storage operations that precede the operations that produce refined metals (or other products) from metallic mineral concentrates at facilities adjacent to the metallic~~

mineral processing plant. This definition shall not be construed as requiring that mining of ore be conducted in order for the combination of equipment to be considered a metallic mineral processing plant.

- (c) "Product packaging station" means the equipment used to fill containers with metallic compounds or metallic mineral concentrates.
- (d) "Rail car loading station" means that portion of a metallic mineral processing plant where metallic minerals or metallic mineral concentrates are loaded by a conveying system into rail cars.
- (e) "Rail car unloading station" means that portion of a metallic mineral processing plant where metallic ore is unloaded from a rail car into a hopper, screen, or crusher.
- (f) "Screen" means a device for separating material according to size by passing undersize material through one or more mesh surfaces (screens) in series and retaining oversize material on the mesh surfaces (screens).
- (g) "Storage bin" means a facility for storage (including surge bins and hoppers) or metallic minerals prior to further processing or loading.
- (h) "Thermal dryer" means a unit in which the surface moisture content of a metallic mineral or a metallic mineral concentrate is reduced by direct or indirect contact with a heated gas stream.
- (i) "Truck loading station" means that portion of a metallic mineral processing plant where metallic minerals or metallic mineral concentrates are loaded by a conveying system into trucks.
- (j) "Truck unloading station" means that portion of a metallic mineral processing plant where metallic ore is unloaded from a truck into a hopper, screen, or crusher.

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

Stat. Auth.: ORS Ch. 468 & 468A  
Hist.: DEQ 16-1984, f. & ef. 8-21-84

## Standards of Performance for Automobile and Light duty Truck Surface Coating Operations

340-25-653

### (1) Applicability.

- (a) Except as provided in subsection (b) of this section, this rule applies to the following facilities in an automobile or light-duty truck assembly plant, for which construction, reconstruction, or modification commenced after October 5, 1979:
  - (A) each prime coat operation;
  - (B) each guide coat operation; and
  - (C) each topcoat operation.
- (b) Operations used to coat plastic body components or all-plastic automobile or light-duty truck bodies on separate coating lines are not subject to this rule. The attachment of plastic body parts to a metal body before the body is coated does not cause the metal body coating operation to be exempted.

- (2) Requirements. Facilities subject to this rule shall comply with 40 CFR Part 60, Subpart MM, as adopted under OAR 340-25-535.
- (3) Definitions. As used in this rule:
- (a) "Automobile" means a motor vehicle capable of carrying no more than 12 passengers.
  - (b) "Automobile and light-duty truck body" means the exterior surface of an automobile or light-duty truck including hoods, fenders, cargo boxes, doors, and grill opening panels.
  - (c) "Guide coat operation" means the guide coat spray booth, flash-off area and bake oven(s) which are used to apply and dry or cure a surface coating between the prime coat and topcoat operation on the components of automobile and light-duty truck bodies.
  - (d) "Light-duty truck" means any motor vehicle rated at 3,850 kilograms gross vehicle weight or less, designed mainly to transport property.
  - (e) "Plastic body" means an automobile or light-duty truck body constructed of synthetic organic material.
  - (f) "Prime coat operation" means the prime coat spray booth or dip tank, flash-off area, and bake oven(s) which are used to apply and dry or cure the initial coating on components of automobile or light-duty truck bodies.

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

Stat. Auth.: ORS Ch. 468 & 468A  
Hist.: DEQ 16-1984, f. & ef. 8-21-84.

## **Standards of Performance for Phosphate Rock Plants**

~~340-25-655 [The pertinent federal rules are 40 CFR 60.400 to 60.404 also known as Subpart NN. The following standards set forth in Subpart NN apply to phosphate rock plants which have maximum plant production capacity greater than 3.6 megagrams per hour (4.0 tons per hour), for which construction or modification of the facility affected by this rule commenced after September 21, 1979. Standard for Particulate: No owner or operator subject to the provisions of this rule shall cause to be discharged into the atmosphere:~~

- ~~(1) From any phosphate rock dryer any gases which:
 
  - ~~(a) Contain particulate matter in excess of 0.030 kilogram per megagram of phosphate rock feed (0.060 lb/ton); or~~
  - ~~(b) Exhibit greater than 10 percent opacity.~~~~
- ~~(2) From any phosphate rock calciner processing unbeneficiated rock or blends of beneficiated and unbeneficiated rock, any gases which:
 
  - ~~(a) Contains particulate matter in excess of 0.12 kilogram per megagram of phosphate rock feed (0.23 lb/ton); or~~
  - ~~(b) Exhibit greater than 10 percent opacity.~~~~
- ~~(3) From any phosphate rock calciner processing beneficiated rock any gases which:
 
  - ~~(a) Contain particulate matter in excess of 0.055 kilogram per megagram of phosphate rock feed (0.11 lb/ton); or~~~~

- ~~(b) Exhibit greater than 10 percent opacity.~~  
~~(4) From any phosphate rock grinder any gases which:~~  
~~(a) Contain particulate matter in excess of 00.006 kilogram per megagram of phosphate rock feed (0.012 lb/ton); or~~  
~~(b) Exhibit greater than zero percent opacity.~~  
~~(5) From any ground phosphate rock handling and storage system any gases which exhibit greater than zero percent opacity.]~~

**(1) Applicability.**

**(a) Except as provided in subsection (b) of this section, this rule applies to the following facilities used in phosphate rock plants which have a maximum plant production capacity greater than 4 tons/hr, and for which construction, modification, or reconstruction commenced after September 21, 1979:**

**(A) Dryers;**

**(B) calciners;**

**(C) grinders; and**

**(D) ground rock handling and storage facilities.**

**(b) Facilities used in producing or preparing phosphate rock solely for consumption in elemental phosphorus production are not subject to this rule.**

**(2) Requirements. Facilities subject to this rule shall comply with 40 CFR Part 60, Subpart NN, as adopted under OAR 340-25-535.**

**(3) Definitions. As used in this rule:**

**(a) "Calciner" means a unit in which the moisture and organic matter of phosphate rock is reduced within a combustion chamber.**

**(b) "Dryer" means a unit in which the moisture content of phosphate rock is reduced by contact with a heated gas stream.**

**(c) "Grinder" means a unit which is used to pulverize dry phosphate rock to the final product size used in the manufacture of phosphate fertilizer and does not include crushing devices used in mining.**

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 22-1982, f. & ef. 10-21-82

## **Standards of Performance for Ammonium Sulfate Manufacture**

### **340-25-656**

**(1) Applicability. This rule applies to each ammonium sulfate dryer within an ammonium sulfate manufacturing plant in the caprolactam by-product, synthetic, and coke oven by-product sectors of the ammonium sulfate industry for which construction or modification commenced after February 4, 1980.**

**(2) Requirements. Ammonium sulfate dryers subject to this rule shall comply with 40 CFR Part 60, Subpart PP, as adopted under OAR 340-25-535.**

**(3) Definitions. As used in this rule:**

**(a) "Ammonium sulfate dryer" means a unit or vessel into which**



ammonium sulfate is charged for the purpose of reducing the moisture content of the product using a heated gas stream. The unit includes foundations, superstructure, material charger systems, exhaust systems, and integral control systems and instrumentation.

- (b) "Ammonium sulfate manufacturing plant" means any plant which produces ammonium sulfate.
- (c) "Caprolactam by-product ammonium sulfate manufacturing plant" means any plant which produces ammonium sulfate as a by-product from process streams generated during caprolactam manufacture.
- (d) "Coke oven by-product ammonium sulfate manufacturing plant" means any plant which produces ammonium sulfate by reacting sulfuric acid with ammonia recovered as a by-product from the manufacture of coke.
- (e) "Synthetic ammonium sulfate manufacturing plant" means any plant which produces ammonium sulfate by direct combination of ammonia and sulfuric acid.

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

Stat. Auth.: ORS Ch. 468 & 468A

## **Standards of Performance for Graphics Arts Industry Publication: Rotogravure Printing**

**340-25-660**

- ~~{(1) The pertinent federal rules are 40 CFR 60.430 to 60.435, also known as Subpart QQ. The following emission standard, summarizing the federal standard set forth in Subpart QQ, applies to publication rotogravure printing presses, but not proof presses, which commenced construction, modification, or reconstruction after October 28, 1980.~~
- ~~{(2) Standard for Volatile Organic Compounds: No owner or operator shall cause to be discharged into the atmosphere Volatile Organic Compounds in excess of 16 per cent of the total mass of Volatile Organic Compounds solvent and water used at that facility during any one performance averaging period.}~~
- (1) Applicability.**
  - (a) Except as provided in subsection (b) of this section, this rule applies to each publication rotogravure printing press for which construction, modification, or reconstruction commenced after October 28, 1980.**
  - (b) Proof presses are not subject to this rule.**
- (2) Requirements. Publication rotogravure printing presses subject to this rule shall comply with 40 CFR Part 60, Subpart QQ, as adopted under OAR 340-25-535.**
- (3) Definitions. As used in this rule:**
  - (a) "Proof press" means any device used only to check the quality of the image formation of newly engraved or etched gravure cylinders and prints only non-saleable items.**
  - (b) "Publication rotogravure printing press" means any number of rotogravure printing units capable of printing simultaneously on the same continuous web or substrate and includes any associated device**

for continuously cutting and folding the printed web, where the following saleable paper products are printed:

- (A) Catalogues, including mail order and premium;
- (B) Direct mail advertisements, including circulars; letters, pamphlets, cards, and printed envelopes;
- (C) Display advertisements, including general posters, outdoor advertisements, car cards, window posters, counter and floor displays, point-of-purchase, and other printed display material;
- (D) Magazines;
- (E) Miscellaneous advertisements, including brochures, pamphlets, catalogue sheets, circular folders, announcements, package inserts, book jackets, market circulars, magazine inserts, and shopping news;
- (F) Newspapers, magazine and comic supplements for newspapers, and preprinted newspaper inserts, including hi-fi and spectacular rolls and section;
- (G) Periodicals; and
- (H) Telephone and other directories, including business reference services.

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

Stat. Auth.: ORS Ch. 468 & 468A  
Hist.: DEQ 17-1983, f. & ef. 10-19-83

## **Standards of Performance for Tape and Label Surface Coating Operations**

**340-25-662**

- ~~{(1) The pertinent federal rules are 40 CFR 60.440 to 60.447, also known as Subpart RR. The following emission standard, summarizing the federal standard set forth in Subpart RR, applies to each coating line used in the manufacture of pressure sensitive tape and label materials which commenced construction, modification, or reconstruction after December 30, 1980.~~
- ~~{(2) Standard for Volatile Organic Compounds: no owner or operator shall cause to be discharged into the atmosphere Volatile Organic Compounds in excess of 0.20 kilograms per kilogram of coating solids applied, averaged over a calendar month.}~~
- (1) Applicability. This rule applies to each coating line used in the manufacture of pressure sensitive tape and label materials for which construction, modification, or reconstruction commenced after December 30, 1980.**
- (2) Requirements.**
  - (a) Except as provided in subsection (b) of this section, facilities subject to this rule shall comply with 40 CFR Part 60, Subpart RR, as adopted under OAR 340-25-535.**
  - (b) Any facility which inputs to the coating process 45 Mg of VOC or less per 12 month period is not subject to the emission limits of 40 CFR 60.442(a) unless and until the amount of VOC input exceeds 45 Mg per**

12 month period.

**(3) Definitions. As used in this rule:**

- (a) "Coating line" means any number or combination of adhesive, release, or precoat coating applicators, flashoff areas, and ovens which coat a continuous web, located between a web unwind station and a web rewind station, to produce pressure sensitive tape and label materials.**
- (b) "Flashoff area" means the portion of a coating line after the coating applicator and usually before the oven entrance.**

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

Stat. Auth.: ORS Ch. 468 & 468A  
Hist.: DEQ 16-1984, f. & ef. 8-21-84

**Standards of Performance for ~~Large Appliance~~ Industrial Surface Coating: Large Appliances**

**340-25-665**

~~{(1) The pertinent federal rules are 40 CFR 60.450 to 60.456, also known as Subpart SS. The following emission standard, summarizing the federal standard set forth in Subpart SS, applies to large appliance surface coating lines which commenced construction, modification, or reconstruction after December 24, 1980.~~

~~(2) Standard for Volatile Organic Compounds: No owner or operator shall cause to be discharged into the atmosphere Volatile Organic Compounds in excess of 0.90 kilograms per liter of coating solids applied.~~

**(1) Applicability. This rule applies to each surface coating operation in a large appliance surface coating line for which construction, modification or reconstruction commenced after December 24, 1980.**

**(2) Requirements. Surface coating operations subject to this rule shall comply with 40 CFR Part 60, Subpart SS, as adopted under OAR 340-25-535.**

**(3) Definitions. As used in this rule:**

**(a) "Coating application station" means that portion of the coating operation where a prime coat or a top coat is applied to large appliance parts or products.**

**(b) "Large appliance surface coating line" means that portion of a large appliance assembly plant engaged in the application and curing of organic surface coatings on large appliance parts or products.**

**(c) "Surface coating operation" means the system on a large appliance surface coating line used to apply and dry or cure an organic coating on the surface of large appliance parts or products. The surface coating operation may be a prime coat or a topcoat operation and includes the coating application station(s), flashoff area, and curing oven.**

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

Stat. Auth.: ORS Ch. 468 & 468A  
Hist.: DEQ 17-1983, f. & ef. 10-19-83

## Standards of Performance for Metal Coil Surface Coating

~~340-25-670 [The pertinent federal rules are 40 CFR 60.460 to 60.466, also known as Subpart TT. The following emission standard, summarizing the federal standard set forth in Subpart TT, applies to each prime coating operation, and/or to each finish coating operation, at a metal coil surface coating facility, which commenced construction, modification, or reconstruction after January 5, 1981. Standards for Volatile Organic Compounds: No owner or operator shall cause to be discharged into the atmosphere more than:~~

- ~~(1) 0.28 kilogram VOC per liter (kg VOC/l) of coating solids applied for each calendar month for each affected facility that does not use an emission control device(s).~~
- ~~(2) 0.14 kg VOC/l of coating solids applied for each calendar month for each affected facility that continuously uses an emission control device(s) operated at the most recently demonstrated overall efficiency.~~
- ~~(3) 10 percent of the VOC's applied for each calendar month (90 percent emission reduction) for each affected facility that continuously uses an emission control device(s) operated at the most recently demonstrated overall efficiency.~~
- ~~(4) A value between 0.14 (or a 90 percent emissions reduction) and 0.28 kg VOC/l of coating solids applied for each calendar month for each affected facility that intermittently uses an emission control device operated at the most recently demonstrated overall efficiency.]~~

(1) Applicability. This rule applies to the following facilities in a metal coil surface coating operation for which construction, modification or reconstruction commenced after January 5, 1981:

- (a) each prime coat operation;
- (b) each finish coat operation; and
- (c) each prime and finish coat operation combined when the finish coat is applied wet on wet over the prime coat and both coatings are cured simultaneously.

(2) Requirements. Facilities subject to this rule shall comply with 40 CFR Part 60, Subpart TT, as adopted under OAR 340-25-535.

(3) Definitions. As used in this rule:

- (a) "Coating" means any organic material that is applied to the surface of metal coil.
- (b) "Coating application station" means that portion of the coating operation where the coating is applied to the surface of the metal coil, including the flashoff area between the coating application station and the curing oven.
- (c) "Finish coat operation" means the coating application station, curing oven, and quench station used to apply and dry or cure the final coating(s) on the surface of the metal coil. Where only a single coating is applied to the metal coil that coating is considered a finish coat.
- (d) "Metal coil surface coating operation" means the application system used to apply an organic coating to the surface of any continuous metal strip with thickness of 0.006 in. or more that is packaged in a roll or coil.

- (e) "Prime coat operation" means the coating application station, curing oven, and quench station used to apply and fry or cure the initial coating(s) of the surface of the metal coil.

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

Stat. Auth.: ORS Ch. 468 & 468A  
Hist.: DEQ 17-1983, f. & ef. 10-19-83

## Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture

~~340-25-675 [The pertinent federal rules are 40 CFR 60.470 to 60.474, also known as Subpart UU. The following emission standards, summarizing the federal standards set forth in Subpart UU, applies to each saturator and each mineral handling and storage facility at asphalt roofing plants; and each asphalt storage tank and each blowing still at asphalt processing plants, petroleum refineries, and asphalt roofing plants. The standards apply to facilities commenced after November 18, 1980.~~

- ~~(1) Standards for Particulate Matter: No owner or operator shall cause to be discharged into the atmosphere from any saturator:~~
- ~~(a) Particulate matter in excess of:~~
    - ~~(A) 0.04 kilograms of particulate per megagram of asphalt shingle or mineral surfaced roll roofing produced; or~~
    - ~~(B) 0.4 kilograms per megagram of saturated felt or smooth surfaced roll roofing produced.~~
  - ~~(b) Exhaust gases with opacity greater than 20 percent; and~~
  - ~~(c) Any visible emissions from a saturator capture system for more than 20 percent of any period of consecutive valid observations totaling 60 minutes.~~
- ~~(2) No owner or operator shall cause to be discharged into the atmosphere from any blowing still:~~
- ~~(a) Particulate matter in excess of 0.67 kilograms of particulate per megagram of asphalt charged to the still when a catalyst is added to the still; and~~
  - ~~(b) Particulate matter in excess of 0.71 kilograms of particulate per megagram of asphalt charged to the still when a catalyst is added to the still and when No. 6 fuel oil is fired in the afterburner; and~~
  - ~~(c) Particulate matter in excess of 0.60 kilograms of particulate per megagram of asphalt charged to the still during blowing without a catalyst; and~~
  - ~~(d) Particulate matter in excess of 0.64 kilograms of particulate per megagram of asphalt charged to the still during blowing without a catalyst and when No. 6 fuel oil is fired in the afterburner; and~~
  - ~~(e) Exhaust gases with an opacity greater than 0 percent unless an opacity limit for the blowing still when fuel oil is used to fire the afterburner has been established by the Department.~~
- ~~(3) No owner or operator shall cause to be discharged into the atmosphere from any asphalt storage tank exhaust gases with opacity greater than 0 percent,~~

except for one consecutive 15 minute period in any 24 hour period when the transfer lines are being blown for clearing. The control device shall not be bypassed during this 15 minute period.

~~(4) No owner or operator shall cause to be discharged into the atmosphere from any mineral handling and storage facility emissions with opacity greater than 1 percent.~~

**(1) Applicability.**

**(a) Except as provided in subsection (b) of this section, this rule applies to the following facilities:**

**(A) Each saturator and each mineral handling and storage facility at asphalt roofing plants for which construction or modification commenced after November 18, 1980; and**

**(B) Each asphalt storage tank and each blowing still at asphalt processing plants, petroleum refineries, and asphalt roofing plants that processes and/or stores:**

**(i) asphalt used for roofing only or for roofing and other purposes for which construction or modification commenced after November 18, 1980; or**

**(ii) only nonroofing asphalts for which construction or modification commenced after May 26, 1981.**

**(b) Storage tanks containing cutback asphalts (asphalts diluted with solvents to reduce viscosity for low temperature applications) and emulsified asphalts (asphalts dispersed in water with an emulsifying agent) are not subject to this rule.**

**(2) Requirements. Facilities subject to this rule shall comply with 40 CFR Part 60, Subpart UU, as adopted under OAR 340-25-535.**

**(3) Definitions. As used in this rule:**

**(a) "Asphalt processing" means the storage and blowing of asphalt.**

**(b) "Asphalt processing plant" means a plant which blows asphalt for use in the manufacture of asphalt products.**

**(c) "Asphalt roofing plant" means a plant which produces asphalt roofing products (shingles, roll roofing, siding, or saturated felt).**

**(d) "Asphalt storage tank" means any tank used to store asphalt at asphalt roofing plants, petroleum refineries, and asphalt processing plants.**

**(e) "Blowing still" means the equipment in which air is blown through asphalt flux to change the softening point and penetration rate.**

**(f) "Mineral handling and storage facility" means the areas in asphalt roofing plants in which minerals are unloaded from a carrier, the conveyor transfer points between the carrier and the storage silos, and the storage silos.**

**(g) "Saturator" means the equipment in which asphalt is applied to felt to make asphalt roofing products. The term saturator includes the saturator, wet looper, and coater.**

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

Stat. Auth.: ORS Ch. 468 & 468A  
Hist.: DEQ 17-1983, f. & ef. 10-19-83

**Standards of Performance for ~~VOC~~ Equipment Leaks ~~from~~ of VOC in the Synthetic Organic Chemical Manufacturing Industry**

~~340-25-680 [The pertinent federal rules are 40 CFR 60.480 to 60.489, also known as Subpart VV. The emissions standards, in the federal standards set forth in Subpart VV, apply to VOC leaks from the following equipment which commenced construction or modification after January 5, 1981:~~

~~(1) The affected facilities are those in the Synthetic Organic Chemicals Manufacturing Industry with a design capacity of 1000 Mg/yr (1102 tons/yr) or greater:~~

- ~~(a) Pumps in light liquid service;~~
- ~~(b) Compressors;~~
- ~~(c) Pressure relief devices in gas/vapor service;~~
- ~~(d) Sampling connection systems;~~
- ~~(e) Open ended valves or lines;~~
- ~~(f) Valves;~~
- ~~(g) Closed vent systems and control devices.~~

~~(2) The detailed standards are found in federal rules, along with the record keeping and reporting requirements.]~~

~~(1) Applicability. This rule applies to the group of all fugitive emissions equipment within a process unit in the synthetic organic chemicals manufacturing industry for which construction or modification commenced after January 5, 1981.~~

~~(2) Requirements.~~

~~(a) Except as provided in subsection (b) of this section, facilities subject to this rule shall comply with 40 CFR Part 60, Subpart VV, as adopted under OAR 340-25-535.~~

~~(b) The following facilities are not subject to 40 CFR 60.482 provided that records are maintained as required in 40 CFR 60.486(i):~~

- ~~(A) any facility with the design capacity to produce less than 1,000 Mg/yr.;~~
- ~~(B) a facility producing heavy liquid chemicals only from heavy liquid feed or raw materials;~~
- ~~(C) any facility that produces beverage alcohol; or~~
- ~~(D) any facility that has no equipment in VOC service.~~

~~(3) Special Provisions. Addition or replacement of equipment for the purpose of process improvement which is accomplished without a capital expenditure shall not by itself be considered a modification under this rule.~~

~~(4) Definitions. As used in this rule:~~

~~(a) "Connector" means flanged, screwed, welded, or other joined fittings used to connect two pipelines or a pipe line and a piece of process equipment.~~

~~(b) "Fugitive emissions equipment: means each pump, compressor, pressure relief device, sampling connection system, open-ended valve or line, valve, and flange or other connector in VOC service and any devices or systems required by 40 CFR Part 60, Subpart VV.~~

~~(c) "Open-ended valve or line" means any valve, except safety relief valves, having one side of the valve seat in contact with process fluid and one side open to the atmosphere, either directly or through open~~

pipng.

- (d) "Process unit" means components assembled to produce, as intermediate or final product, one or more of the chemicals listed in 40 CFR 60.489. A process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product.
- (e) "Synthetic organic chemicals manufacturing industry" means the industry that produces, as intermediates or final products, one or more of the chemicals listed in 40 CFR 60.489.

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 16-1984, f. & ef. 8-21-84; AQ 1-1993, f. & ef. 3-9-93

## **Standards of Performance for the Beverage Can Surface Coating Industry**

~~340-25-685 [The pertinent federal rules are 40 CFR 60.490 to 60.496, also known as Subpart WW. The following emission standard, summarizing the federal standard set forth in Subpart WW, applies to beverage can surface coating lines which commenced construction, modification, or reconstruction after November 26, 1980. Standard for Volatile Organic Compounds: No owner or operator shall cause to be discharged into the atmosphere Volatile Organic Compounds (VOC) that exceed the following volume-weighted calendar month average emissions:~~

- ~~(1) 0.29 kilograms of VOC per liter of coating solids from each two piece can exterior base coating operation, except clear base coat.~~
- ~~(2) 0.46 kilograms of VOC per liter of coating solids from each two piece can clear base coating operation and from each overvarnish coating operation.~~
- ~~(3) 0.89 kilograms of VOC per liter of coating solids from each two piece can inside spray coating operation.]~~

(1) Applicability. This rule applies to the following facilities in beverage can surface coating lines for which construction, modification, or reconstruction commenced after November 26, 1980:

- (a) each exterior base coat operation;
- (b) each overvarnish coating operation; and
- (c) each inside spray coating operation.

(2) Requirements. Facilities subject to this rule shall comply with 40 CFR Part 60, Subpart WW, as adopted under OAR 340-25-535.

(3) Definitions. As used in this rule:

- (a) "Beverage can" means any two-piece steel or aluminum container in which soft drinks or beer, including malt liquor, are packaged. This does not include containers in which fruit or vegetable juices are packaged.
- (b) "Exterior base coating operation" means the system on each beverage can surface coating line used to apply a coating to the exterior of a two-piece beverage can body. The exterior base coat provides corrosion resistance and a background for lithography or printing



operations. The exterior base coat operation consists of the coating application station, flashoff area, and curing oven. The exterior base coat may be pigmented or clear (unpigmented).

- (c) "Inside spray coating operation" means the system on each beverage can surface coating line used to apply a coating to the interior of a two-piece beverage can body. This coating provides a protective film between the contents of the beverage can and the metal can body. The inside spray coating operation consists of the coating application station, flashoff area, and curing oven. Multiple applications of an inside spray coating are considered to be a single coating operation.
- (d) "Overvarnish coating operation" means the system on each beverage can surface coating line used to apply a coating over ink which reduces friction for automated beverage can filling equipment, provides gloss, and protects the finished beverage can body from abrasion and corrosion. The overvarnish coating is applied to two-piece beverage can bodies. The overvarnish coating operation consists of the coating application station, flashoff area, and curing oven.
- (e) "Two-piece can" means any beverage can that consists of a body manufactured from a single piece of steel or aluminum and a top. Coatings for a two-piece can are usually applied after fabrication of the can body.

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 16-1984, f. & ef. 8-21-84; AQ 1-1993, f. & ef. 3-9-93

## **Standards of Performance for Bulk Gasoline Terminals**

~~340-25-690 [The pertinent federal rules are 40 CFR 60.500 to 60.506, also known as Subpart XX. The following emission standard, summarizing the federal standard set forth in Subpart XX, applies to each gasoline tank truck loading rack at a Bulk Gasoline Terminal, which commenced construction, modification, or reconstruction after August 18, 1983.]~~

~~Standards for Volatile Organic Compounds:~~

- (1) ~~The emissions to the atmosphere from the vapor collection system due to the loading of liquid product into gasoline tank trucks are not to exceed 35 milligrams of total organic compounds per liter of gasoline loaded, except as noted in section (2) of this rule.~~
- (2) ~~For each affected facility equipped with an existing vapor processing system, the emissions to the atmosphere from the vapor collection system due to the loading of liquid product into gasoline tank trucks are not to exceed 80 milligrams of total organic compounds per liter of gasoline loaded.]~~
- (1) Applicability. Except as provided in section (3) of this rule, this rule applies to the total of all the loading racks at a bulk gasoline terminal which deliver liquid product into gasoline tank trucks for which construction or modification commenced after December 17, 1980.
- (2) Requirements. Facilities subject to this rule shall comply with 40 CFR Part

- 60, Subpart XX, as adopted under OAR 340-25-535.
- (3) Special provisions. Any replacement of components of an existing facility which commenced before August 18, 1983 in order to comply with any emission standard adopted by the Commission, a regional authority, or a political subdivision of the state shall not be considered a reconstruction for purposes of this rule.
- (4) Definitions. As used in this rule:
- (a) "Bulk gasoline terminal" means any gasoline facility which receives gasoline by pipeline, ship or barge, and has a gasoline throughput greater than 75,700 liters per day. Gasoline throughput shall be the maximum calculated design throughput as may be limited by compliance with an enforceable condition under Federal, State or local law and discoverable by the Department and any other person.
  - (b) "Gasoline" means any petroleum distillate or petroleum distillate/alcohol blend having a Reid vapor pressure of 27.6 kilopascals or greater which is used as a fuel for internal combustion engines.
  - (c) "Gasoline tank truck" means a delivery tank truck used at bulk gasoline terminals for loading gasoline or which has loaded gasoline on the immediately previous load.
  - (d) "Loading rack" means the loading arms, pumps, meters, shutoff valves, relief valves, and other piping and valves necessary to fill delivery tank trucks.

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 16-1984, f. & ef. 8-21-84; AQ 1-1993, f. & ef. 3-9-93

## Standards of Performance for the Rubber Tire Manufacturing Industry 340-25-695

- (1) Applicability. This rule applies to the following facilities in rubber tire manufacturing plants for which construction, modification, or reconstruction commenced after January 20, 1983:
- (a) each undertread cementing operation;
  - (b) sidewall cementing operation;
  - (c) tread end cementing operation;
  - (d) bead cementing operation;
  - (e) green tire spraying operation;
  - (f) Michelin-A operation;
  - (g) Michelin-B operation; and
  - (h) Michelin-C automatic operation.
- (2) Requirements.
- (a) Except as provided in subsection (b) of this section, facilities subject to this rule shall comply with 40 CFR Part 60, Subpart BBB, as adopted under OAR 340-25-535, for all tire types, including those not listed under "tire" as defined in this rule.
  - (b) Each undertread cementing operation and each sidewall cementing

operation in rubber tire manufacturing plants, subject to subsection (a) of this section, that commenced construction, modification, or reconstruction before September 15, 1987, shall have the option of complying with the alternate provisions in 40 CFR 60.542a instead of 40 CFR 60.542.

**(3) Definitions. As used in this rule:**

- (a) "Bead cementing operation" means the system that is used to apply cement to the bead rubber before or after it is wound into its final circular form. A bead cementing operation consists of a cement application station, such as a dip tank, spray booth and nozzles, cement trough and roller or swab applicator, and all other equipment necessary to apply cement to wound beads or bead rubber and to allow evaporation of solvent from cemented beads.**
- (b) "Green tire spraying operation" means the system used to apply a mold release agent and lubricant to the inside and/or outside of green tires to facilitate the curing process and to prevent rubber from sticking to the curing press. A green tire spraying operation consists of a booth where spraying is performed, the spray application station, and related equipment, such as the lubricant supply system.**
- (c) "Sidewall cementing operation" means the system used to apply cement to a continuous strip of sidewall component or any other continuous strip component (except combined tread/sidewall component) that is incorporated into the sidewall of a finished tire. A sidewall cementing operation consists of a cement application station and all other equipment, such as the cement supply system and feed and takeaway conveyors, necessary to apply cement to sidewall strips or other continuous strip component (except combined tread/sidewall component) and to allow evaporation of solvent from the cemented rubber.**
- (d) "Tire" means any agricultural, airplane, industrial, mobile home, light-duty truck and/or passenger vehicle tire that has a bead diameter less than or equal to 19.7 inches and a cross section dimension less than or equal to 12.8 inches, and that is mass produced in an assembly-line fashion.**
- (e) "Tread end cementing operation" means the system used to apply cement to one or both ends of the tread or combined tread/sidewall component. A tread end cementing operation consists of a cement application station and all other equipment, such as the cement supply system and feed and takeaway conveyors, necessary to apply cement to tread ends and to allow evaporation of solvent from the cemented tread ends.**
- (f) "Undertread cementing operation" means the system used to apply cement to a continuous strip of tread or combined tread/sidewall component. An undertread cementing operation consists of a cement application station and all other equipment, such as the cement supply system and feed and takeaway conveyors, necessary to apply cement to tread or combined tread/sidewall strips and to allow evaporation of solvent from the cemented tread or combined tread/sidewall.**

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

Stat. Auth.: ORS Ch. 468 & 468A

## Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry

340-25-697

### (1) Applicability.

(a) Except as provided in subsections (b) through (g) of this section and section (3) of this rule, this rule applies to facilities in the manufacture of polypropylene, polyethylene, polystyrene, or poly (ethylene terephthalate) as specified in this subsection.

(A) Polypropylene and polyethylene manufacturing. This rule applies to emissions specified in this paragraph from all equipment at any facility used in the manufacture of polypropylene or polyethylene for which construction, modification or reconstruction commenced after January 10, 1989 or, for process units specified in 40 CFR 60.560 Table 1, after September 30, 1987. If more than one polyolefin is produced at a facility for which the applicability date is determined under 40 CFR 60.560 Table 1, the owner or operator shall select one of the polymer/production process combinations in such Table for purposes of determining applicability.

(i) Process Emissions. This rule applies to continuous and intermittent process emissions from each raw materials preparation section, each polymerization reaction section, each material recovery section, each product finishing section, and each product storage section at facilities using a continuous manufacturing process.

(ii) Equipment Leaks. This rule applies to each group of fugitive emissions equipment within any process unit.

(B) Polystyrene Manufacturing. This rule applies to emissions from facilities specified in this paragraph that are used in the manufacture of polystyrene for which construction, modification or reconstruction commenced after September 30, 1987.

(i) Process Emissions. This rule applies to continuous process emissions from each material recovery section at facilities using a continuous manufacturing process.

(ii) Equipment Leaks. This rule applies to each group of fugitive emissions equipment within any process unit.

(C) Poly(ethylene terephthalate) Manufacturing. This rule applies to continuous process emissions from process sections at facilities using a continuous process specified in this paragraph that are used in the manufacture of poly(ethylene terephthalate) for which construction, modification or reconstruction commenced after September 30, 1987:

(i) Each polymerization reaction section;

- (ii) Each material recovery section for facilities using dimethyl terephthalate; and
      - (iii) Each raw materials preparation section for facilities using terephthalic acid.
  - (b) Any polypropylene or polyethylene facility with a September 30, 1987 applicability date as determined under 40 CFR 60.560 Table 1 with an uncontrolled emission rate at or below the rate listed in 40 CFR 60.560 Table 2 is not subject to 40 CFR 60.562-1 unless and until its uncontrolled emission rate exceeds the rate specified in 40 CFR 60.560 Table 2 or it is modified or reconstructed after January 10, 1989.
  - (c) Any modified or reconstructed facility used in the manufacture of polystyrene or poly(ethylene terephthalate):
    - (A) with an uncontrolled emission rate at or below the rate listed in 40 CFR 60.560 Table 2 is not subject to 40 CFR 60.562-1 unless and until its uncontrolled emission rate exceeds the rate specified in 40 CFR 60.560 Table 2; or
    - (B) with an existing control device and uncontrolled emission rate greater than the rate listed in 40 CFR 60.560 Table 2 is not subject to 40 CFR 60.562-1 unless and until the existing control device is modified, reconstructed or replaced.
  - (d) Any process section of an experimental process line is not subject to this rule.
  - (e) At polypropylene or polyethylene facilities, individual vent streams that have continuous emissions with uncontrolled annual emissions of less than 1.6 megagrams per year or with a weight percent total organic compounds (measured in accordance with 40 CFR 60.564) of less than 0.10 percent are not subject to 40 CFR 60.562-1(a)(1) unless and until the uncontrolled annual emissions equal or exceed 1.6 megagrams per year or the weight percent total organic compounds equals or exceeds 0.10 percent.
  - (f) Emergency vent streams at polypropylene or polyethylene facilities are not subject to 40 CFR 60.562-1(a)(2).
  - (g) Facilities with a design capacity of less than 1,000 megagrams per year are not subject to 40 CFR 60.562-2.
- (2) Requirements. Facilities subject to this rule shall comply with 40 CFR Part 60, Subpart DDD, as adopted under OAR 340-25-535.
- (3) Special Provisions.
  - (a) Addition or replacement of fugitive emissions equipment for the purposes of improvement which is accomplished without a capital expenditure, as defined in 40 CFR 60.561, shall not by itself be considered a modification under 40 CFR 60.562-2.
- (4) Definitions. As used in this rule:
  - (a) "Connector" means flanged, screwed, welded, or other joined fittings used to connect two pipelines or a pipe line and a piece of process equipment.
  - (b) "Control device" means an enclosed combustion device, vapor recovery system or flare.
  - (c) "Fugitive emissions equipment" means each pump, compressor, pressure relief device, sampling connection system, open-ended valve

- or line, valve, and flange or other connector in VOC service and any devices or systems required by 40 CFR Part 60, Subpart VV.
- (d) "Open-ended valve or line" means any valve, except safety relief valves, having one side of the valve seat in contact with process fluid and one side open to the atmosphere, either directly or through open piping.
  - (e) "Process unit" means equipment assembled to perform any of the physical and chemical operations in the production of polypropylene, polyethylene, polystyrene, (general purpose, crystal, or expandable), or poly(ethylene terephthalate) or one of their copolymers. A process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product. Examples of process units are raw materials handling and monomer recovery.
  - (f) "Polyethylene" means a thermoplastic polymer or copolymer comprised of at least 50 percent ethylene by weight.
  - (g) "Poly (ethylene terephthalate)" or "PET" means a polymer or copolymer comprised of at least 50 percent bis-(2-hydroxyethyl)-terephthalate (BHET) by weight.
  - (h) "Poly (ethylene terephthalate) manufacture using dimethyl terephthalate" means the manufacturing of poly (ethylene terephthalate) based on the esterification of dimethyl terephthalate (DMT) with ethylene glycol to form the intermediate monomer bis-(2-hydroxyethyl)-terephthalate (BHET) that is subsequently polymerized to form PET.
  - (i) "Poly (ethylene terephthalate) manufacture using terephthalic acid" means the manufacturing of poly(ethylene terephthalate) based on the esterification reaction of terephthalic acid (TPA) with ethylene glycol to form the intermediate monomer bis-(2-hydroxyethyl)-terephthalate (BHET) that is subsequently polymerized to form PET.
  - (j) "Polypropylene" or "PP" means a thermoplastic polymer or copolymer comprised of at least 50 percent propylene by weight.
  - (k) "Polystyrene" or "PS" means a thermoplastic polymer or copolymer comprised of at least 80 percent styrene or para-methylstyrene by weight.
  - (l) "Vent stream" means any gas stream released to the atmosphere directly from an emission source or indirectly either through another piece of process equipment or a material recovery device that constitutes part of the normal recovery operations in a polymer process line where potential emissions are recovered for recycle or resale, and any gas stream directed to an air pollution control device. The emissions released from an air pollution control device are not considered a vent stream unless, as noted above, the control device is part of the normal material recovery operations in a polymer process line where potential emissions are recovered for recycle or resale.

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

Stat. Auth.: ORS Ch. 468 & 468A

## Standards of Performance for Flexible Vinyl and Urethane Coating and Printing

~~340-25-701 [The pertinent federal rules are 40 CFR 60.580 to 60.585, also known as Subpart FFF. The following emission standards set forth in Subpart FFF apply to each rotogravure printing line used to print or coat flexible vinyl or urethane products, for which construction, modification, or reconstruction was commenced after January 18, 1983. Standards for Volatile Organic Compounds (VOC); Each owner or operator subject to this subpart shall either:~~

- ~~(1) Use inks with a weighted average VOC content of less than 1.0 kilogram VOC per kilogram ink solids.~~
- ~~(2) Reduce VOC emissions to the atmosphere by 85 percent.]~~
- (1) Applicability. Except as provided in section (3) this rule applies to each rotogravure printing line used to print or coat flexible vinyl or urethane products for which construction, modification, or reconstruction commenced after January 18, 1983.**
- (2) Requirements. Facilities subject to this rule shall comply with 40 CFR Part 60, Subpart FFF, as adopted under OAR 340-25-535.**
- (3) Special Provisions. For facilities controlled by a solvent recovery emission control device, the provisions of 40 CFR 60.584(a) requiring monitoring of operations will not apply until EPA has promulgated performance specifications under 40 CFR Part 60, Appendix B for the continuous monitoring system. After the promulgation of performance specifications, these provisions will apply to each rotogravure printing line subject to this rule. Facilities controlled by a solvent recovery emission control device that become subject to the standard prior to promulgation of performance specifications must conduct performance tests in accordance with 40 CFR 60.13(b) after performance specifications are promulgated.**
- (4) Definitions. As used in this rule, "Flexible vinyl and urethane products" means those products, except for resilient floor coverings (1977 Standard Industry Code 3996) and flexible packaging that are more than 50 micrometers (0.002 inches) thick, and that consist of or contain a vinyl or urethane sheet or a vinyl or urethane coated web.**

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 15-1985, f. & ef. 10-21-85; AQ 1-1993, f. & ef. 3-9-93

## Standards of Performance for ~~VOC~~ Equipment Leaks of VOC in Petroleum Refineries

~~340-25-702 [The pertinent federal rules are 40 CFR 60.590 to 60.593, also known as Subpart GGG. The following emission standards set forth in Subpart GGG apply to volatile Organic Compound (VOC) leaks from petroleum refineries, modified or constructed after January 4, 1983:~~

- ~~(1) VOC leaks from the following components:~~

- ~~(a) Pumps;~~
- ~~(b) Compressors;~~
- ~~(c) Pressure relief devices;~~
- ~~(d) Sampling connection systems;~~
- ~~(e) Open ended valves or lines;~~
- ~~(f) Valves.~~
- ~~(2) The detailed standards, recordkeeping and reporting requirements are found in 40 CFR 60.592, which references 60.482-1 to 60.482-10.)~~
- (1) Applicability.
  - (a) Except as provided in subsection (b) of this section, this rule applies to the following facilities in petroleum refineries for which construction or modification commenced after January 4, 1983:
    - (A) a compressor; and
    - (B) the group of all the fugitive emission equipment within a process unit.
  - (b) Facilities subject to OAR 340-25-680 or 340-25-708 are not subject to this rule.
- (2) Requirements. Facilities subject to this rule shall comply with 40 CFR Part 60, Subpart GGG, as adopted under OAR 340-25-535.
- (3) Special Provisions. Addition or replacement of equipment for the purpose of process improvement which is accomplished without a capital expenditure shall not by itself be considered a modification under this rule.
- (4) Definitions. As used in this rule:
  - (a) "Connector" means flanged, screwed, welded, or other joined fittings used to connect two pipelines or a pipe line and a piece of process equipment.
  - (b) "Fugitive emissions equipment" means each valve, pump, pressure relief device, sampling connection system, open-ended valve or line, and flange or other connector in VOC service. For the purposes of recordkeeping and reporting only, compressors are considered equipment.
  - (c) "Open-ended valve or line" means any valve, except safety relief valves, having one side of the valve seat in contact with process fluid and one side open to the atmosphere, either directly or through open piping.
  - (d) "Petroleum" means the crude oil removed from the earth and the oils derived from tar sands, shale, and coal.
  - (e) "Petroleum refinery" means any facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants, or other products through the distillation of petroleum or through the redistillation, cracking or reforming of unfinished petroleum derivatives.
  - (f) "Process unit" means components assembled to produce intermediate or final products from petroleum, unfinished petroleum derivatives, or other intermediates; a process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product.

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



## **Standards of Performance for Synthetic Fiber[Plants] Production Facilities**

~~340-25-704 [The pertinent federal rules are 40 CFR 60.600 to 60.604, also known as Subpart HHH. The following emission standards set forth in Subpart HHH apply to each solvent spun synthetic fiber process that produces more than 500 megagrams of fiber per year, that commenced construction or reconstruction after November 23, 1982. Standards for Volatile Organic Compounds (VOC): No owner or operator shall cause the discharge into the atmosphere from any process, VOC in excess of:~~

~~(1) 10 kilograms of VOC per megagram of solvent fed to the spinning solution preparation system or precipitation bath for processes producing acrylic fibers, or producing both acrylic and non acrylic fiber types.~~

~~(2) 17 kilograms of VOC per megagram of solvent feed if producing only non acrylic fiber types.]~~

### **(1) Applicability.**

**(a) Except as provided in subsections (b) and (c) of this section, this rule applies to each solvent-spun synthetic fiber process that produces more than 500 megagrams of fiber per year for which construction or reconstruction commenced after November 23, 1982.**

**(b) Facilities using the reaction spinning process to produce spandex fiber or the viscose process to produce rayon fiber are not subject to this rule.**

**(c) Facilities for which modification, but not reconstruction, commenced after November 23, 1982 are not subject to this rule.**

**(2) Requirements. Facilities subject to this rule shall comply with 40 CFR Part 60, Subpart HHH, as adopted under OAR 340-25-535.**

**(3) Definitions. As used in this rule:**

**(a) "Rayon fiber" means a manufactured fiber composed of regenerated cellulose, as well as manufactured fibers composed of regenerated cellulose in which substituents have replaced not more than 15 percent of the hydrogens of the hydroxyl groups.**

**(b) "Reaction spinning process" means the fiber-forming process where a prepolymer is extruded into a fluid medium and solidification takes place by chemical reaction to form the final polymeric material.**

**(c) "Solvent-spun synthetic fiber" means any synthetic fiber produced by a process that uses an organic solvent in the spinning solution, the precipitation bath, or processing of the spun fiber.**

**(d) "Spandex fiber" means a manufactured fiber in which the fiber-forming substance is a long chain synthetic polymer comprised of at least 85 percent of a segmented polyurethane.**

**(e) "Viscose process" means the fiber forming process where cellulose and concentrated caustic soda are reacted to form soda or alkali cellulose. This reacts with carbon disulfide to form sodium cellulose xanthate, which is then dissolved in a solution of caustic soda. After ripening, the solution is spun into an acid coagulating bath. This precipitates the**

cellulose in the form of a regenerated cellulose filament.

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 15-1985, f. & ef. 10-21-85; AQ 1-1993, f. & ef. 3-9-93

340-25-705 [Renumbered to 340-25-805]

### Standards of Performance for Petroleum Dry Cleaners

~~340-25-706 [The pertinent federal rules are 40 CFR 60.620 to 60.625, also known as Subpart JJJ. The following work practice standards set forth in Subpart JJJ apply to petroleum dry cleaning plants with a total dryer capacity equal to or greater than 38 kilograms (84 pounds), for which construction or modification was commenced after December 14, 1982. Standards for Volatile Organic Compounds:~~

- ~~(1) Each dryer shall be a solvent recovery dryer.~~
- ~~(2) Each filter shall be a cartridge filter, which shall be drained in its sealed housing for at least 8 hours prior to its removal.~~
- ~~(3) Dryers, washers, filters, stills, and settling tanks shall have a leak repair instruction posted on the unit and printed in the operating manual by the manufacturer.]~~

**(1) Applicability.**

**(a) Except as provided in subsection (b) of this section, this rule applies to the following facilities at a petroleum dry cleaning plant with a total manufacturers' rated dryer capacity equal to or greater than 84 pounds and for which construction or modification commenced after December 14, 1982:**

- (A) petroleum solvent dry cleaning dryers;**
- (B) washers;**
- (C) filters;**
- (D) stills; and**
- (E) settling tanks.**

**(b) A dryer installed between December 14, 1982 and September 21, 1984, in a plant with an annual solvent consumption level of less than 4,700 gallons, is not subject to this rule.**

**(2) Requirements. Facilities subject to this rule shall comply with 40 CFR Part 60, Subpart JJJ, as adopted under OAR 340-25-535.**

**(3) Special provisions. The calculation of manufacturer's rated dryer capacity shall be in accordance with this section.**

**(a) When the facility is installed in an existing plant that is not expanding the manufacturers' rated capacity of its petroleum solvent dryer(s), the total manufacturers' rated dryer capacity is the summation of the manufacturers' rated capacity for each existing petroleum solvent dryer.**

**(b) When the facility is installed in a plant that is expanding the manufacturers' rated capacity of its petroleum solvent dryers, the total manufacturers' rated dryer capacity is the summation of the**

manufacturers' rated dryer capacity for each existing and proposed new petroleum solvent dryer.

(c) When the facility is installed in a new plant, the total manufacturers' rated dryer capacity is the summation of the manufacturers' rated dryer capacity for each proposed new petroleum solvent dryer.

(d) The petroleum solvent dryers considered in the determination of the total manufacturers' rated dryer capacity are those new and existing dryers in the plant that will be in service at any time after the proposed new source or modification commences operation.

(4) Definitions. As used in this rule:

(a) "Dryer" means a machine used to remove petroleum solvent from articles of clothing or other textile or leather goods, after washing and removing of excess petroleum solvent, together with the piping and ductwork used in the installation of this device.

(b) "Manufacturers' rated dryer capacity" means the dryer's rated capacity of articles, in pounds or kilograms of clothing articles per load, dry basis, that is typically found on each dryer on the manufacturer's nameplate or in the manufacturer's equipment specifications.

(c) "Petroleum dry cleaner" means a dry cleaning facility that uses petroleum solvent in a combination of washers, dryers, filters, stills, and settling tanks.

(d) "Washer" means a machine which agitates fabric articles in a petroleum solvent bath and spins the articles to remove the solvent, together with the piping and ductwork used in the installation of this device.

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 15-1985, f. & ef. 10-21-85; AQ 1-1993, f. & ef. 3-9-93

### Standards of Performance for Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes

340-25-707

(1) Applicability. This rule applies to the following facilities that produce any of the chemicals listed in 40 CFR 60.617 as a product, co-product, by-product, or intermediate and for which construction, modification, or reconstruction commenced after October 21, 1983:

(a) each air oxidation reactor not discharging its vent stream into a recovery system;

(b) each combination of an air oxidation reactor and the recovery system into which its vent stream is discharged; and

(c) each combination of two or more air oxidation reactors and the common recovery system into which their vent streams are discharged.

(2) Requirements.

(a) Except as provided in subsection (b) of this section, facilities subject to this rule shall comply with 40 CFR Part 60, Subpart III, as adopted

under OAR 340-25-535.

(b) Each facility with a total resource effectiveness index value greater than 4.0 shall comply with 40 CFR 60.612, 60.614(f), 60.615(h), and 60.615(l) and is exempt from all other provisions of 40 CFR Part 60, Subpart III.

(3) Definitions. As used in this rule:

(a) "Air oxidation reactor" means any device or process vessel in which one or more organic reactants are combined with air, or a combination of air and oxygen, to produce one or more organic compounds; this includes ammoxidation and oxychlorination reactions.

(b) "Recovery system" means an individual recovery device or series of such devices applied to the same process stream.

(c) "Total resource effectiveness index value" means a measure of the supplemental total resource requirement per unit reduction of TOC associated with an individual air oxidation vent stream, based on vent stream flow rate, emission rate of TOC, net heating value, and corrosion properties (whether or not the vent stream is halogenated), as quantified by the equation given under 40 CFR 60.614(e).

(d) "Vent stream" means any gas stream containing nitrogen which was introduced as air to the air oxidation reactor, released to the atmosphere directly from any air oxidation reactor recovery train or indirectly, after diversion through other process equipment. The vent stream excludes equipment leaks and relief valve discharges including, but not limited to, pumps, compressors, and valves.

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

Stat. Auth.: ORS Ch. 468 & 468A

## **Standards of Performance for Equipment Leaks of VOC from Onshore Natural Gas Processing Plants**

~~340-25-708 [The pertinent federal rules are 40 CFR 60.630 to 60.636, also known as Subpart KKK. The emission standards set forth in Subpart KKK apply to each onshore natural gas processing plant that commenced construction, reconstruction, or modification after January 20, 1984. The detailed standards for VOC leaks from these plants are set forth in 40 CFR 60.632 through 60.634.]~~

(1) Applicability.

(a) Except as provided in subsections (b) and (c) of this section and section (3) of this rule, this rule applies to the following facilities in onshore natural gas processing plants for which construction, reconstruction, or modification commenced after January 20, 1984:

(A) a compressor in VOC service or in wet gas service;

(B) the group of all fugitive emissions equipment, except compressors, within a process unit.

(b) Facilities subject to OAR 340-25-680 or 340-25-702 are not subject to this rule.

(c) A compressor station, dehydration unit, sweetening unit, underground

storage tank, field gas gathering system, or liquefied natural gas unit which is not located at an onshore natural gas processing plant is not subject to this rule.

- (2) Requirements. Facilities subject to this rule shall comply with 40 CFR Part 60, Subpart KKK, as adopted under OAR 340-25-535.
- (3) Special provisions. Addition or replacement of fugitive emissions equipment for the purpose of process improvement that is accomplished without a capital expenditure shall not by itself be considered a modification for purposes of this rule.
- (4) Definitions. As used in this rule:
- (a) "Connector" means flanged, screwed, welded, or other joined fittings used to connect two pipelines or a pipe line and a piece of process equipment.
  - (b) "Field gas" means feedstock gas entering the natural gas processing plant.
  - (c) "Fugitive emissions equipment" means each pump, pressure relief device, open-ended valve or line, valve, compressor, and flange or other connector that is in VCC service or in wet gas service, and any device or system required by 40 CFR Part 60, Subpart KKK.
  - (c) "Natural gas liquids" means the hydrocarbons, such as ethane, propane, butane, and pentane, that are extracted from field gas.
  - (d) "Natural gas processing plant" means any processing site engaged in the extraction of natural gas liquids from field gas, fractionation of mixed natural gas liquids to natural gas products, or both.
  - (e) "Onshore" means all facilities except those that are located in the territorial seas or on the outer continental shelf.
  - (f) "Open-ended valve or line" means any valve, except safety relief valves, having one side of the valve seat in contact with process fluid and one side open to the atmosphere, either directly or through open piping.
  - (g) "Process unit" means equipment assembled for the extraction of natural gas liquids from field gas, the fractionation of the liquids into natural gas products, or other operations associated with the processing of natural gas; a process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product.
  - (h) "Wet gas service" means that a piece of equipment contains or contacts the field gas before the extraction step in the process.

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 19-1986, f. & ef. 11-7-86; AQ 1-1993, f. & ef. 3-9-93

## **Standards of Performance for SO<sub>2</sub> from Onshore Natural Gas Processing Plants**

~~340-25-710 [The pertinent federal rules are 40 CFR 60.640 to 60.648, also~~

~~known as Subpart LLL. The emission standards set forth in Subpart LLL, paragraph 60.642 and Tables 1 and 2 attached thereto, apply to each onshore natural gas processing plant that commenced construction, or modification after January 20, 1984, which emits 2 long tons per day or more of hydrogen sulfide (expressed as sulfur) in the acid gas.]~~

**(1) Applicability.**

**(a) Except as provided in subsection (b) of this section, this rule applies to the following facilities that process natural gas which are located on land, including facilities located onshore which process natural gas produces from either onshore or offshore wells and for which construction or modification commenced after January 20, 1984:**

**(A) each sweetening unit; and**

**(B) each sweetening unit followed by a sulfur recovery unit.**

**(b) Sweetening facilities producing acid gas that is completely reinjected into oil-or-gas-bearing geologic strata or that is otherwise not released to the atmosphere are not subject to this rule.**

**(2) Requirements.**

**(a) Except as provided in subsection (b) of this section, facilities subject to this rule shall comply with 40 CFR Part 60, Subpart LLL, as adopted under OAR 340-25-535.**

**(b) Facilities with a design capacity less than 2 long tons per day (LT/D) of hydrogen sulfide (H<sub>2</sub>S) in the acid gas (expressed as sulfur) are subject to 40 CFR 60.647(c), but are not subject to 40 CFR 60.642 through 60.646.**

**(3) Definitions. As used in this rule:**

**(a) "Acid gas" means a gas stream of hydrogen sulfide (H<sub>2</sub>S) and carbon dioxide (CO<sub>2</sub>) that has been separated from sour natural gas by a sweetening unit.**

**(b) "Natural gas" means a naturally occurring mixture of hydrocarbon and non-hydrocarbon gases found in geologic formations beneath the earth's surface. The principal hydrocarbon constituent is methane.**

**(c) "Onshore" means all facilities except those that are located in the territorial seas or on the outer continental shelf.**

**(d) "Sweetening unit" means a process device that separates the H<sub>2</sub>S and CO<sub>2</sub> contents from the sour natural gas stream.**

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

Stat. Auth.: ORS Ch. 468 & 468A  
Hist.: DEQ 19-1986, f. & ef. 11-7-86

**Standards of Performance for Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations**

**340-25-713**

**(1) Applicability.**

**(a) Except as provided in subsection (b) of this section, this rule applies to**

the following facilities that are part of a process unit that produces any of the chemicals listed in 40 CFR 60.667 as a product, co-product, by-product, or intermediate for which construction, modification or reconstruction commenced after December 30, 1983:

- (A) each distillation unit not discharging its vent stream into a recovery system;
- (B) each combination of a distillation unit and the recovery system into which its vent stream is discharged; and
- (C) each combination of two or more distillation units and the common recovery system into which their vent streams are discharged.

(b) The following facilities are not subject to this rule:

- (A) any distillation unit operating as part of a process unit which produces coal tar or beverage alcohols, or which uses, contains, and produces no VOC;
- (B) any distillation unit that is subject to OAR 340-25-697; and
- (C) any distillation unit that is designed and operated as a batch operation.

(2) Requirements.

- (a) Except as provided in subsections (b) through (d) of this section, facilities subject to this rule shall comply with 40 CFR Part 60, Subpart NNN, as adopted under OAR 340-25-535.
- (b) Each facility with a total resource effectiveness (TRE) index value greater than 8.0 is only subject to 40 CFR 60.662; 60.664(d), (e) and (f); and 60.665(h) and (l).
- (c) Facilities in a process unit with a total design capacity for all chemicals produced within that unit of less than one gigagram per year is only subject to the record-keeping and reporting requirements in 40 CFR 60.665(j), (l)(6), and (n).
- (d) Facilities operated with a vent stream flow rate less than 0.008 scm/min is only subject to the test method and procedure and the recordkeeping and reporting requirements in 40 CFR 60.664(g) and 60.665(i), (l)(5), and (o).

(3) Definitions. As used in this rule:

- (a) "Batch distillation operation" means a noncontinuous distillation operation in which a discrete quantity or batch of liquid feed is charged into a distillation unit and distilled at one time. After the initial charging of the liquid feed, no additional liquid is added during the distillation operation.
- (b) "Distillation operation" means an operation separating one or more feed stream(s) into two or more exit stream(s), each exit stream having component concentrations different from those in the feed stream(s). The separation is achieved by the redistribution of the components between the liquid and vapor-phase as they approach equilibrium within the distillation unit.
- (c) "Distillation unit" means a device or vessel in which distillation operations occur, including all associated internals (such as trays or packing) and accessories (such as reboiler, condenser, vacuum pump, steam jet, etc.), plus any associated recovery system.

- (d) "Process unit" means equipment assembled and connected by pipes or ducts to produce, as intermediates or final products, one or more of the chemicals in 40 CFR 60.667; a process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product.
- (e) "Product" means any compound or chemical listed in 40 CFR 60.667 that is produced for sale as a final product as that chemical, or for use in the production of other chemicals or compounds. By-products, co-products, and intermediates are considered to be products.
- (f) "Recovery System" means an individual recovery device or series of such devices applied to the same vent stream.

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

Stat. Auth.: ORS Ch. 468 & 468A

## Standards of Performance for Nonmetallic Mineral Processing Plants

### 340-25-714

#### (1) Applicability.

- (a) Except as provided in subsection (b) through (d) of this section, this rule applies to the following facilities in fixed or portable nonmetallic mineral processing plants for which construction, reconstruction, or modification commenced after August 31, 1983:
  - (A) each crusher;
  - (B) each grinding mill;
  - (C) each screening operation;
  - (D) each bucket elevator;
  - (E) each belt conveyor;
  - (F) each bagging operation;
  - (G) each storage bin; and
  - (H) each enclosed truck or railcar loading station.
- (b) A facility that is not located at a major source is not subject to this rule.
- (c) A facility that is subject to OAR 340-25-560 or OAR 340-25-575 or that follows in the plant process any facility subject to OAR 340-25-560 or OAR 340-25-575 is not subject to this rule.
- (d) Facilities at the following plants are not subject to this rule:
  - (A) Fixed sand and gravel plants and crushed stone plants with capacities of 25 tons per hour or less;
  - (B) Portable sand and gravel plants and crushed stone plants with capacities of 150 tons per hour or less; and
  - (C) Common clay plants and pumice plants with capacities of 10 tons per hour or less.

#### (2) Requirements.

- (a) Except as provided in subsection (b) of this section, facilities subject to this rule shall comply with 40 CFR Part 60, Subpart OOO, as adopted under OAR 340-25-535.
- (b) When an existing facility is replaced by a piece of equipment of equal



or smaller size, the new facility is exempt from 40 CFR 60.672, 60.674 and 60.675 provided:

- (A) the owner or operator of the facility complies with reporting requirements of 40 CFR 60.676(a) and (b); and
- (B) the owner or operator is not replacing all existing facilities in a production line with new facilities.

**(3) Definitions. As used in this rule:**

- (a) "Belt conveyor" means a conveying device that transports material from one location to another by means of an endless belt that is carried on a series of idlers and routed around a pulley at each end.
- (b) "Bucket elevator" means a conveying device of nonmetallic minerals consisting of a head and foot assembly which supports and drives an endless single or double strand chain or belt to which buckets are attached.
- (c) "Capacity" means the cumulative rated capacity of all initial crushers that are part of the plant.
- (d) "Size" means the rated capacity in tons per hour of a crusher, grinding mill, bucket elevator, bagging operation, or enclosed truck or railcar loading station; the total surface area of the top screen of a screening operation; the width of a conveyor belt; and the rated capacity in tons of a storage bin.
- (e) "Crusher" means a machine used to crush any nonmetallic minerals, and includes, but is not limited to, the following types: jaw, gyratory, cone, roll, rod mill, and hammermill, and impactor.
- (f) "Grinding mill" means a machine used for the wet or dry fine crushing of any nonmetallic mineral. Grinding mills include, but are not limited to, the following types: hammer, roller, rod, pebble and ball, and fluid energy. The grinding mill includes the air conveying system, air separator, or air classifier, where such systems are used.
- (g) "Major source" means a major source required to have a Federal Operating Permit, as defined in OAR 340-28-110.
- (h) "Nonmetallic mineral" means any of the following minerals or any mixture of which the majority is any of the following minerals:
  - (A) Crushed and Broken Stone, including Limestone, Dolomite, Granite, Traprock, Sandstone, Quartz, Quartzite, Marl, Marble, Slate, Shale, Oil Shale, and Shell;
  - (B) Sand and Gravel;
  - (C) Clay including Kaolin, Fireclay, Bentonite, Fuller's Earth, Ball Clay, and Common Clay;
  - (D) Rock Salt;
  - (E) Gypsum;
  - (F) Sodium Compounds, including Sodium Carbonate, Sodium Chloride, and Sodium Sulfate;
  - (G) Pumice;
  - (H) Gilsonite;
  - (I) Talc and Pyrophyllite;
  - (J) Boron, including Borax, Kernite, and Colemanite;
  - (K) Barite;
  - (L) Fluorospaer;

- (M) Feldspar;
- (N) Diatomite;
- (O) Perlite;
- (P) Vermiculite;
- (Q) Mica; or
- (R) Kyanite, including Andalusite, Sillimanite, Topaz, and Dumortierite.

- (i) "Nonmetallic mineral processing plant" means any combination of equipment that is used to crush or grind any nonmetallic mineral wherever located, including lime plants, power plants, steel mills, asphalt concrete plants, portland cement plants, or any other facility processing nonmetallic minerals, except as provided in subsections (1)(c) and (1)(d) of this rule.
- (j) "Portable plant" means any nonmetallic mineral processing plant that is mounted on any chassis or skids and may be moved by the application of a lifting or pulling force. In addition, there shall be no cable, chain, turnbuckle, bolt or other means (except electrical connections) by which any piece of equipment is attached or clamped to any anchor, slab, or structure, including bedrock that must be removed prior to the application of lifting or pulling force for the purpose of transporting the unit.
- (k) "Screening operation" means a device for separating material according to size by passing undersize material through one or more mesh surfaces (screens) in series, and retaining oversize material on the mesh surfaces (screens).
- (l) "Storage bin" means a facility for storage (including surge bins and hoppers) or metallic minerals prior to further processing or loading.

[Note: Nonmetallic mineral processing facilities which are not located at a major source may be subject to 40 CFR Part 60, Subpart OOO under authority retained by EPA.]

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

Stat. Auth.: ORS Ch. 468 & 468A

## **Standards of Performance for Wool Fiberglass Insulation Manufacturing Plants**

~~340-25-715 [The pertinent federal rules are 40 CFR 60.680 to 60.685, also known as Subpart PPP. The following emission standard set forth in Subpart PPP applies to each rotary spin wool fiberglass insulation manufacturing line, for which construction, modification, or reconstruction was commenced after February 7, 1984. Standard for Particulate: No owner or operator shall cause to be discharged into the atmosphere from an affected facility any gases which contain particulate matter in excess of 5.5 kg/Mg (11.0 lb/ton) of glass pulled.]~~

- (1) Applicability. This rule applies to each rotary spin wool fiberglass insulation manufacturing line for which construction, modification, or reconstruction

- commenced after February 7, 1984.
- (2) Requirements.** Facilities subject to this rule shall comply with 40 CFR Part 60, Subpart PPP, as adopted under OAR 340-25-535.
- (3) Definitions.** As used in this rule:
- (a)** "Manufacturing line" means the manufacturing equipment comprising the forming section, where molten glass is fiberized and a fiberglass mat is formed; the curing section, where the binder resin in the mat is thermally "set"; and the cooling system, where the mat is cooled.
- (b)** "Rotary spin" means a process used to produce wool fiberglass insulation by forcing molten glass through numerous small orifices in the side wall of a spinner to form continuous glass fibers that are then broken into discrete lengths by high velocity air flow.
- (c)** "Wool fiberglass insulation" means a thermal insulation material composed of glass fibers and made from glass produced or melted at the same facility where the manufacturing line is located.

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

Stat. Auth.: ORS Ch. 468 & 468A  
Hist.: DEQ 15-1985, f. & ef. 10-21-85

## **Standards of Performance for VOC Emissions From Petroleum Refinery Wastewater Systems**

### **340-25-720**

- (1) Applicability.** This rule applies to the following separate facilities in petroleum refineries for which construction, modification, or reconstruction is commenced after May 4, 1987:
- (a)** Each individual drain system;
- (b)** Each oil-water separator; and
- (c)** Each aggregate facility.
- (2) Requirements.** Facilities subject to this rule shall comply with 40 CFR Part 60, Subpart QQQ, as adopted under OAR 340-25-535.
- (3) Special Provisions.** Notwithstanding 40 CFR 60.14(e)(2), the construction or installation of a new individual drain system shall constitute a modification to a facility described in subsection (1)(c) of this rule. For purposes of this section, a new individual drain system shall be limited to all process drains and the first common junction box.
- (4) Definitions.** As used in this rule:
- (a)** "Aggregate facility" means an individual drain system together with ancillary downstream sewer lines and oil-water separators, down to and including the secondary oil-water separator, as applicable.
- (b)** "Individual drain system" means all process drains connected to the first common downstream junction box. The term includes all such drains and common junction box, together with their associated sewer lines and other junction boxes, down to the receiving oil-water separator.
- (c)** "Junction box" means a manhole or access point to a wastewater

sewer system line.

- (d) "Oil-water separator" means wastewater treatment equipment used to separate oil from water consisting of a separation tank, which also includes the forebay and other separator basins, skimmers, weirs, grit chambers, and sludge hoppers. Slop oil facilities, including tanks, are included in this term along with storage vessels and auxiliary drain systems and the oil-water separator. This term does not include storage vessels or auxiliary equipment which do not come in contact with or store oily wastewater.
- (e) "Petroleum refinery" means any facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants, or other products through the distillation of petroleum or through the redistillation, cracking or reforming of unfinished petroleum derivatives.

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

Stat. Auth.: ORS Ch. 468 & 468A

## Standards of Performance for Magnetic Tape Coating Facilities

### 340-25-723

- (1) Applicability. This rule applies to each coating operation and each piece of coating mix preparation equipment for which construction, modification, or reconstruction commenced after January 22, 1986.
- (2) Requirements.
- (a) Except as provided in subsection (b) of this section, facilities subject to this rule shall comply with 40 CFR Part 60, Subpart SSS, as adopted under OAR 340-25-535.
- (b) Any new coating operation that utilizes less than 38 m<sup>3</sup> of solvent or any modified or reconstructed coating operation that utilizes less than 370 m<sup>3</sup> of solvent for the manufacture of magnetic tape per calendar year is subject only to the requirements of 40 CFR 60.714(a), 60.717(b), and 60.717(c). If the amount of solvent utilized for the manufacture of magnetic tape equals or exceeds these amounts in any calendar year, the facility is subject to 40 CFR 60.712 and all other sections of 40 CFR Part 60, Subpart SSS. Once a facility has become subject to 40 CFR 60.712 and all other sections of 40 CFR Part 60, Subpart SSS, it will remain subject to those requirements regardless of changes in annual solvent utilization.
- (3) Definitions. As used in this rule:
- (a) "Coating mix preparation equipment" means all mills, mixers, holding tanks, polishing tanks, and other equipment used in the preparation of the magnetic coating formulation but, does not include those mills that do not emit VOC because they are closed, sealed, and operated under pressure.
- (b) "Coating operation" means any coating applicator, flashoff area, and drying oven located between a base film unwind station and a base film rewind station that coat a continuous base film to produce magnetic

- tape.
- (c) "Flashoff area" means the portion of a coating operation between the coating applicator and the drying oven where the solvent begins to evaporate from the coated base film.
  - (d) "Magnetic tape" means any flexible substrate that is covered on one or both sides with a coating containing magnetic particles and that is used for audio or video recording or information storage.

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

Stat. Auth.: ORS Ch. 468 & 468A

### Standards of Performance for Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines

~~340-25-725 [The pertinent federal rules are 40 CFR 60.720 to 60.725, also known as Subpart TTT. The following emission standard, summarizing the federal standard set forth in Subpart TTT, applies to each spray booth in which plastic parts for use in the manufacture of business machines receive prime coats, color coats, texture coats, or touch up coats. The standard applies to any affected facility which commenced construction, modification, or reconstruction after January 8, 1986. Standards for Volatile Organic Compounds: No owner or operator shall cause to be discharged into the atmosphere Volatile Organic Compounds (VOC) that exceed the following:~~

- ~~(1) 1.5 kilograms of VOC per liter of coating solids applied from prime coating and color coating.~~
- ~~(2) 2.3 kilogram of VOC per liter of coating solids applied from texture coating and touch up coating.]~~
- (1) Applicability. This rule applies to each spray booth in which plastic parts for use in the manufacture of business machines receive prime coats, color coats, texture coats, or touch-up coats for which construction, modification, or reconstruction commenced after January 8, 1986
- (2) Requirements. Facilities subject to this rule shall comply with 40 CFR Part 60, Subpart TTT, as adopted under OAR 340-25-535.
- (3) Definitions. As used in this rule:
  - (a) "Business machine" means a device that uses electronic or mechanical methods to process information, perform calculation, print or copy information, or convert sound into electrical impulses for transmission.
  - (b) "Color coat" means the coat applied to a part that affects the color and gloss of the part, not including prime coat or texture coat. This definition includes fog coating, but does not include conductive sensitizers or electromagnetic interference/radio frequency interference shielding coatings.
  - (c) "Plastic parts" means panels, housings, bases, covers, and other business machine components formed of synthetic polymers.
  - (d) "Prime coat" means the initial coat applied to a part when more than one coating is applied, not including conductive sensitizers or electromagnetic interference/radio frequency interference shielding

- coatings.
- (e) "Spray booth" means the structure housing automatic or manual spray application equipment where a coating is applied to plastic parts for business machines.
  - (f) "Texture coat" means the rough coat that is characterized by discrete, raised spots on the exterior surface of the part. This definition does not include conductive sensitizers or EMI/RFI shielding coatings.
  - (g) "Touch-up coat" means the coat applied to correct any imperfections in the finish after color or texture coats have been applied. This definition does not include conductive sensitizers or EMI/RFI shielding coatings.

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 24-1989, f. & cert. ef. 10-26-89; AQ 1-1993, f. & ef. 3-9-93

## **Standards of Performance for Calciners and Dryers in Mineral Industries**

### **340-25-730**

#### **(1) Applicability.**

- (a) Except as provided in subsections (b) through (e) of this section, this rule applies to each calciner and dryer at a mineral processing plant for which construction, modification, or reconstruction commenced after April 23, 1986.
- (b) Feed and product conveyors are not subject to this rule.
- (c) For the brick and related clay products industry, only the calcining and drying of raw material prior to firing of the brick are subject to this rule.
- (d) A facility subject to OAR 340-25-652 is not subject to this rule.
- (e) The following processes and process units used at mineral processing plants are not subject to this rule:
  - (A) vertical shaft kilns in the magnesium compounds industry;
  - (B) the chlorination-oxidation process in the titanium dioxide industry;
  - (C) coating kilns, mixers, and aerators in the roofing granules industry; and
  - (D) tunnel kilns, tunnel dryers, apron dryers, and grinding equipment that also dries the process material used in any of the 17 mineral industries included in the definition of "mineral processing plant".

#### **(2) Requirements. Facilities subject to this rule shall comply with 40 CFR Part 60, Subpart UUU, as adopted under OAR 340-25-535.**

#### **(3) Definitions. As used in this rule:**

- (a) "Calciner" means the equipment used to remove combined (chemically bound) water and/or gases from mineral material through direct or indirect heating. This definition includes expansion furnaces and multiple hearth furnaces.
- (b) "Dryer" means the equipment used to remove uncombined (free) water from mineral material through direct or indirect heating.

- (c) "Mineral processing plant" means any unit that processes or produces any of the following minerals, concentrates or any mixture of which the majority (greater than 50 percent) is any of the following minerals or a combination of these minerals: alumina, ball clay, bentonite, diatomite, feldspar, fire clay, fuller's earth, gypsum, industrial sand, kaolin, lightweight aggregate, magnesium compounds, perlite, roofing granules, talc, titanium dioxide, and vermiculite.**

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

Stat. Auth.: ORS Ch. 468 & 468A

## **Standards of Performance for Polymeric Coating of Supporting Substrates Facilities**

### **340-25-735**

#### **(1) Applicability.**

**(a) Except as provided in subsection (b) of this section, this rule applies to each coating operation and any on-site coating mix preparation equipment used to prepare coating for the polymeric coating of supporting substrates for which construction, modification, or reconstruction commenced after April 30, 1987.**

**(b) The following facilities are not subject to this rule:**

**(A) Coating mix preparation equipment used to manufacture coatings at one plant for shipment to another plant for use in a coating operation or for sale to another company for use in a coating operation;**

**(B) Coating mix preparation equipment or coating operations during those times they are used to prepare or apply waterborne coatings so long as the VOC content of the coating does not exceed 9 percent by weight of the volatile fraction;**

**(C) Web coating operations that print an image on the surface of the substrate or any coating applied on the same printing line that applies the image.**

#### **(2) Requirements.**

**(a) Except as provided in subsection (b) of this section, facilities subject to this rule shall comply with 40 CFR Part 60, Subpart VVV, as adopted under OAR 340-25-535.**

**(b) Any facility for which the amount of VOC used is less than 95 Mg per 12-month period is subject only to the requirements of 40 CFR 60.744(b), 60.747(b), and 60.747(c). If the amount of VOC used is 95 MG or greater per 12-month period, the facility is subject to all the requirements of 40 CFR Part 60, Subpart VVV. Once a facility has become subject to the requirements of this rule, it will remain subject to those requirements regardless of changes in annual VOC use.**

#### **(3) Definitions. As used in this rule:**

**(a) "Coating mix preparation equipment" means all mixing vessels in which solvent and other materials are blended to prepare polymeric coatings.**

- (b) "Coating operation" means any coating applicator, flashoff area, and drying oven located between a substrate unwind station and a rewind station that coats a continuous web to produce a substrate with a polymeric coating. Should the coating process not employ a rewind station, the end of the coating operation is after the last drying oven in the process.
- (c) "Flashoff area" means the portion of a coating operation between the coating applicator and the drying oven where the solvent begins to evaporate from the coated base film.
- (d) "VOC used" means the amount of VOC delivered to the coating mix preparation equipment including any contained in premixed coatings or other coating ingredients prepared off the plant site for the formulation for polymeric coating to be applied to supporting substrate at the coating operation, plus any solvent added after initial formulation is complete. If premixed coatings that require no mixing at the plant site are used, "VOC used" means the amount of VOC delivered to the coating applicator.
- (e) "Waterborne coating" means a coating which contains more than 5 weight percent water in its volatile fraction.
- (f) "Web coating" means the coating of products, such as fabric, paper, plastic film, metallic foil, metal coil, cord, and yarn, that are flexible enough to be unrolled from a large roll; and coated as a continuous substrate by methods including, but not limited to, knife coating, roll coating, dip coating, impregnation, rotogravure, and extrusion.

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

Stat. Auth.: ORS Ch. 468 & 468A

## **Compliance**

**340-25-800** Compliance with standards set forth in OAR 340-25-505 through 340-25-800 shall be determined by performance tests and monitoring methods as set forth in the Federal Regulation adopted by reference in OAR 340-25-530.

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 97, f. 9-2-75, ef. 9-25-75; Renumbered from 340-25-540; DEQ 15-1985, f. & ef. 10-21-85; Renumbered from 340-700; AQ 1-1993, f. & ef. 3-9-93

## **More Restrictive Regulations**

**340-25-805** If at any time there is a conflict between Department or regional authority rules and the Federal Regulation (**40 CFR, Part 60**), ~~{the more stringent}~~both shall apply.

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 97, f. 9-2-75, ef. 9-25-75; Renumbered from 340-25-545; DEQ 15-1985, f. & ef. 10-21-85; Renumbered from 340-25-705



## AMENDMENTS TO OAR CHAPTER 340, DIVISION 28<sup>1</sup>

### Stationary Source Air Pollution Control and Permitting Procedures

#### General

#### Definitions

340-28-110 As used in this Division ~~and unless otherwise required by context~~:

- (1) "Act" or "FCAA" means the Federal Clean Air Act, Public Law 88-206 as last amended by Public Law 101-549.
- (2) "Actual emissions" means the mass ~~rate of~~ emissions of a pollutant from an emissions source during a specified time period. Actual emissions shall be directly measured with a continuous monitoring system or calculated using a material balance or verified emission factor in combination with the source's actual operating hours, production rates, or types of materials processed, stored, or combusted during the ~~selected~~ specified time period.
  - (a) For purposes of determining actual emissions as of the baseline period:
    - (A) Except as provided in paragraph ~~(a)~~ (B) ~~and (C)~~ of this subsection, actual emissions shall equal the average rate at which the source actually emitted the pollutant during a baseline period and which is representative of normal source operation;
    - (B) The Department may presume ~~that existing~~ the source-specific permitted mass emissions limit included in the permit for the source that was effective on September 8, 1981 is ~~are~~ equivalent to the actual emissions of the source during the baseline period if ~~they are~~ it is within 10% of the ~~calculated~~ actual emissions calculated under paragraph (A) of this subsection. ~~(c)~~
    - ~~(c)~~ b For any ~~newly permitted emissions~~ source which had not yet begun normal operation in the ~~baseline~~ specified time period, actual emissions shall equal the potential to emit of the source.
    - ~~(b)~~ c For purposes of determining actual emissions for Emission Statements under OAR 340-28-1500 through 340-28-1520, and Major Source Interim Emission Fees under OAR 340-28-2400 through 340-28-2550, actual emissions include, but are not limited to, routine process emissions, fugitive emissions, excess emissions from maintenance, startups and shutdowns, equipment malfunction, and other activities.
    - ~~(c)~~ For purposes of determining actual emissions in the calculation of fees for a federal operating permit

<sup>1</sup> Only amended and new rules are printed.

~~program source, actual emissions shall equal the actual rate of emissions in tons per year of any regulated air pollutant emitted from the source over the preceding calendar year or any other period determined by the Department or Lane Regional Air Pollution Authority to be representative of normal source operation and consistent with the fee schedule.~~

- (3) "Affected source" means a source that includes one or more affected units that are subject to emission reduction requirements or limitations under Title IV of the FCAA.
- (4) "Affected States" mean all States:
  - (a) Whose air quality may be affected by a proposed permit, permit modification or permit renewal and that are contiguous to Oregon; or
  - (b) That are within 50 miles of the permitted source.
- (5) "Aggregate insignificant emissions" means the annual actual emissions of any regulated air pollutant from one or more designated activities at a source that are less than or equal to the lowest applicable level specified in this section. The total emissions from each designated activity and the aggregate emissions from all designated activities shall be less than or equal to the lowest applicable level specified in this section. Emissions from the usage of non-exempt insignificant mixtures may be included in the aggregate provided that the criteria of this section are met. The aggregate insignificant emissions levels are:
  - (a) One ton for each criteria pollutant, ~~+(except lead)+~~;
  - (b) 120 pounds for lead;
  - (c) 500 pounds for PM<sub>10</sub> in a PM<sub>10</sub> nonattainment area;
  - (d) The lesser of the amount established in OAR 340-32-4500, Table 3, or 1,000 pounds for each Hazardous Air Pollutant;
  - (e) An aggregate of 5,000 pounds for all Hazardous Air Pollutants.
- (6) "Air Contaminant" means a dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon, acid or particulate matter, or any combination thereof.
- (7) "Air Contaminant Discharge Permit" or "ACDP" means a written permit issued, renewed, amended, or revised by the Department, pursuant to OAR 340-28-1700 through 340-28-1790 and includes the application review report.
- (8) "Alternative method" means any method of sampling and analyzing for an air pollutant which is not a reference or equivalent method but which has been demonstrated to the Department's satisfaction to, in specific cases, produce results adequate for determination of compliance. An alternative method used to meet an applicable federal requirement for which a reference method is specified shall be approved by EPA unless EPA has delegated authority for the approval to the Department.
- ~~(9)~~ "Applicable requirement" means all of the following as they apply to emissions units in a federal operating permit program source, including requirements that have been promulgated or approved by the EPA through rule making at the time of issuance but have future-effective compliance dates:

- (a) Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by the EPA through rulemaking under Title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in 40 CFR Part 52 (July 1, 1993);
  - (b) Any standard or other requirement adopted under OAR 340-20-047 of the State of Oregon Clean Air Act Implementation Plan, that is more stringent than the federal standard or requirement which has not yet been approved by the EPA, and other state-only enforceable air pollution control requirements;
  - (c) Any term or condition in an ACDP, OAR 340-28-1700 through 340-28-1790, issued before a federal operating permit application is submitted for the source including any term or condition of any preconstruction permits issued pursuant to OAR 340-28-1900 through 340-28-2000, New Source Review), until or unless the Department revokes or modifies the term or condition by a permit modification;
  - (d) Any term or condition in a Notice of Construction and Approval of Plans, OAR 340-28-800 through 340-28-820, issued before a federal operating permit application is submitted for the source until or unless the Department revokes or modifies the term or condition by a Notice of Construction and Approval of Plans or a permit modification;
  - (e) Any standard or other requirement under section 111 of the Act, including section 111(d);
  - (f) Any standard or other requirement under section 112 of the Act, including any requirement concerning accident prevention under section 112(r)(7) of the Act;
  - (g) Any standard or other requirement of the acid rain program under Title IV of the Act or the regulations promulgated thereunder;
  - (h) Any requirements established pursuant to section 504(b) or section 114(a)(3) of the Act;
  - (i) Any standard or other requirement governing solid waste incineration, under section 129 of the Act;
  - (j) Any standard or other requirement for consumer and commercial products, under section 183(e) of the Act;
  - (k) Any standard or other requirement for tank vessels, under section 183(f) of the Act;
  - (l) Any standard or other requirement of the program to control air pollution from outer continental shelf sources, under section 328 of the Act;
  - (m) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless the Administrator has determined that such requirements need not be contained in a federal operating permit; and
  - (n) Any national ambient air quality standard or increment or visibility requirement under part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to section 504(e) of the Act.
- (~~9~~10) "Assessable Emission" means a unit of emissions for

which the major source owner or operator will be assessed a fee. It includes an emission of a pollutant as ~~defined~~ specified in OAR 340-28-2420 from one emission point and from an area within a major source. For routine process emissions, emissions of each pollutant in OAR 340-28-2420 from each emission point included in an ACDP shall be an assessable emission.

~~{(10) "Baseline Concentration" means:~~

~~(a) the ambient concentration level for sulfur dioxide and total suspended particulate which existed in an area during the calendar year 1978. If no ambient air quality data is available in an area, the baseline concentration may be estimated using modeling based on actual emissions for 1978. The following emission increases or decreases will be included in the baseline concentration:~~

~~(A) Actual emission increases or decreases occurring before January 1, 1978; and~~

~~(B) Actual emission increases from any major source or major modification on which construction commenced before January 6, 1975.~~

~~(b) the ambient concentration level for nitrogen oxides which existed in an area during the calendar year 1988. (Renumbered from OAR 340 20 225(2)) Renumbered to OAR 340-31-005(4)~~

(11) "Baseline Emission Rate" means the average actual emission rate during the baseline period. Baseline emission rate shall not include increases due to voluntary fuel switches or increased hours of operation that have occurred after the baseline period.

(12) "Baseline Period" means either calendar years 1977 or 1978. The Department shall allow the use of a prior time period upon a determination that it is more representative of normal source operation.

(13) "Best Available Control Technology" or "BACT" means an emission limitation, including, but not limited to, a visible emission standard, based on the maximum degree of reduction of each air contaminant subject to regulation under the Act which would be emitted from any proposed major source or major modification which, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such air contaminant. In no event, shall the application of BACT result in emissions of any air contaminant which would exceed the emissions allowed by any applicable new source performance standard or any standard for ~~H~~ hazardous ~~A~~ air ~~P~~ pollutant. If an emission limitation is not feasible, a design, equipment, work practice, or operational standard, or combination thereof, may be required. Such standard shall, to the degree possible, set forth the emission reduction achievable and shall provide for compliance by prescribing appropriate permit conditions.

- (14) "Calculated Emissions" as used in OAR 340-28-2400 through 340-28-2550 means procedures used to estimate emissions for the 1991 calendar year.
- (15) "Categorically insignificant activity" means any of the following pollutant emitting activities principally supporting the source:
- (a) exempt insignificant mixture usage;
  - (b) evaporative and tail pipe emissions from on-site motor vehicle operation;
  - (c) natural gas, propane, and distillate oil space heating rated at less than 0.4 million British Thermal Units/hour;
  - (d) office activities;
  - (e) food service activities;
  - (f) janitorial activities;
  - (g) personal care activities;
  - (h) groundskeeping activities;
  - (i) on-site laundry activities;
  - (j) on-site recreation facilities
  - (k) instrument calibration;
  - (l) maintenance and repair shop;
  - (m) automotive repair shops or storage garages;
  - (n) air conditioning or ventilating equipment not designed to remove air contaminants generated by or released from associated equipment;
  - (o) refrigeration systems, including pressure tanks used in refrigeration systems but excluding any combustion equipment associated with such systems;
  - (p) bench scale laboratory equipment and laboratory equipment used exclusively for chemical and physical analysis, including associated vacuum producing devices but excluding research and development facilities;
  - (q) construction activities excluding fugitive dust;
  - (r) warehouse activities;
  - (s) accidental fires;
  - (t) electric air compressors;
  - (u) air purification systems;
  - (v) continuous emissions monitoring vent lines;
  - (w) demineralized water tanks;
  - (x) demineralizer vents;
  - (y) cafeteria or office waste dumpsters;
  - (z) electrical charging stations;
  - (aa) fire brigade training;
  - (bb) instrument air dryers and distribution;
  - (cc) process raw water filtration systems;
  - (dd) process sewer floor drains or open trenches;
  - (ee) pharmaceutical packaging;
  - (ff) fire suppression; and
  - (gg) blueprint making.
- (16) "Certifying individual" means the responsible person or official authorized by the owner or operator of a source who certifies the accuracy of the emission statement.
- (17) "CFR" means Code of Federal Regulations.
- (18) "Class I area" means any Federal, State or Indian reservation land which is classified or reclassified as Class I area. Class I areas are identified in OAR

- 340-31-120.
- (19) "Commence" or "commencement" means that the owner or operator has obtained all necessary preconstruction approvals required by the Act and either has:
- (a) Begun, or caused to begin, a continuous program of actual on-site construction of the source to be completed in a reasonable time; or
  - (b) Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the source to be completed in a reasonable time.
- (20) "Commission" or "EQC" means Environmental Quality Commission.
- (21) "Constant Process Rate" means the average variation in process rate for the calendar year is not greater than plus or minus ten percent of the average process rate.
- (22) "Construction":
- (a) except as provided in subsection (b) of this section means any physical change including, but not limited to, fabrication, erection, installation, demolition, or modification of a source or part of a source;
  - (b) as used in OAR 340-28-1900 through 340-28-2000 ~~and this rule~~ means any physical change including, but not limited to, fabrication, erection, installation, demolition, or modification of an emissions unit, or change in the method of operation of a source which would result in a change in actual emissions.
- (23) "Continuous Monitoring Systems" ~~as used in OAR 340-28-2400 through 340-28-2550,~~ means sampling and analysis, in a timed sequence, using techniques which will adequately reflect ~~calculated emissions and~~ actual emissions or concentrations on a continuing basis in accordance with the Department's Continuous Monitoring Manual, and includes continuous emission monitoring systems and continuous parameter monitoring systems.
- (24) "Criteria Pollutant" means nitrogen oxides, volatile organic compounds, particulate matter, PM<sub>10</sub>, sulfur dioxide, carbon monoxide, or lead.
- ~~(24)~~ (25) "Department"
- (a) as used in OAR 340-28-100 through 340-28-2000 and OAR 340-28-2400 through 340-28-2550 means Department of Environmental Quality; (Renumbered from OAR 340-20-145(1))
  - (b) as used in OAR 340-28-2100 through 340-28-2320 means Department of Environmental Quality or in the case of Lane County, Lane Regional Air Pollution Authority.
- ~~(25)~~ (26) "Director" means the Director of the Department or the Director's designee.
- ~~(26)~~ (27) "Draft permit" means the version of a federal operating permit for which the Department or Lane Regional Air Pollution Authority offers public participation under OAR 340-28-2290 or the EPA and affected State review under OAR 340-28-2310.
- ~~(27)~~ (28) "Effective date of the program" means the date that the EPA approves the federal operating permit program submitted by the Department on a full or interim basis.

In case of a partial approval, the "effective date of the program" for each portion of the program is the date of the EPA approval of that portion.

- (~~28~~29) "Emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.
- (~~29~~30) "Emission" ~~as used in OAR 340-28-2400 through 340-28-2550, Major Source Interim Emission Fees,~~ means a release into the atmosphere of any regulated pollutant or air contaminant.
- (~~30~~31) "Emission Estimate Adjustment Factor" or "EEAF" means an adjustment applied to an emission factor to account for the relative inaccuracy of the emission factor.
- (~~31~~32) "Emission Factor" means an estimate of the rate at which a pollutant is released into the atmosphere, as the result of some activity, divided by the rate of that activity (e.g., production or process rate). Sources shall use an ~~EPA or Department approved~~ emission factor approved by EPA or the Department.
- (~~32~~33) "Emission Limitation" and "Emission Standard" mean a requirement established by a State, local government, or ~~the Administrator of~~ the EPA which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.
- (~~33~~34) "Emission Reduction Credit Banking" means to presently reserve, subject to requirements of ~~these provisions~~ OAR 340-28-1900 through 340-28-2000, New Source Review, emission reductions for use by the reserver or assignee for future compliance with air pollution reduction requirements.
- (~~34~~35) "Emission Reporting Form" means a paper or electronic form developed by the Department that shall be completed by the permittee to report calculated emissions, actual emissions or permitted emissions for interim emission fee assessment purposes.
- (~~35~~36) "Emissions unit" means any part or activity of a ~~stationary~~ source that emits or has the potential to emit any regulated air pollutant.
- (a) A part of a ~~stationary~~ source is any machine, equipment, raw material, product, or byproduct which produces or emits air pollutants. An activity is any process, operation, action, or reaction (e.g., chemical) at a stationary source that emits air pollutants. Except as described in subsection (d) of

this ~~definition~~ section, parts and activities may be grouped for purposes of defining an emissions unit provided the following conditions are met:

- (A) the group used to define the emissions unit may not include discrete parts or activities to which a distinct emissions standard applies or for which different compliance demonstration requirements apply, and
- (B) the emissions from the emissions unit are quantifiable.
- (b) Emissions units may be defined on a pollutant by pollutant basis where applicable.
- (c) The term emissions unit is not meant to alter or affect the definition of the term "unit" for purposes of Title IV of the FCAA.
- (d) Parts and activities shall not be grouped for purposes of determining emissions increases from an emissions unit under OAR 340-28-1930 or OAR 340-28-1940 or for purposes of determining the applicability of any New Source Performance Standard (NSPS).
- ~~(36)~~37 "EPA" or "Administrator" means the Administrator of the United States Environmental Protection Agency or the Administrator's designee.
- (38) "Equivalent method" means any method of sampling and analyzing for an air pollutant which has been demonstrated to the Department's satisfaction to have a consistent and quantitatively known relationship to the reference method, under specified conditions. An equivalent method used to meet an applicable federal requirement for which a reference method is specified shall be approved by EPA unless EPA has delegated authority for the approval to the Department.**
- ~~(37)~~39 "Event" means excess emissions which arise from the same condition and which occur during a single calendar day or continue into subsequent calendar days.
- ~~(38)~~40 "Excess emissions" means emissions which are in excess of a permit limit or any applicable air quality rule.
- ~~(39)~~41 "Exempt Insignificant Mixture Usage" means use, consumption, or generation of insignificant mixtures which the Department does not consider integral to the primary business activity, excluding fuels, raw materials, and end products.
- ~~(40)~~42 "Federal Land Manager" means with respect to any lands in the United States, the Secretary of the federal department with authority over such lands.
- ~~(41)~~43 "Federal operating permit" means any permit covering a federal operating permit program source that is issued, renewed, amended, or revised pursuant to OAR 340-28-2100 through 340-28-2320.
- ~~(42)~~44 "Federal operating permit program" means a program approved by the Administrator under 40 CFR Part 70 ~~{(last amended by 57 FR 32295, July 21, 1992)}~~ **July 1, 1993.**
- ~~(43)~~45 "Federal operating permit program source" means any source subject to the permitting requirements, OAR 340-28-2100 through 340-28-2320, as provided in OAR 340-28-2110.



- (~~44~~46) "Final permit" ~~or "permit"~~ means the version of a federal operating permit issued by the Department or Lane Regional Air Pollution Authority that has completed all review procedures required by OAR 340-28-2200 through 340-28-2320.
- (~~45~~47) "Fugitive Emissions":
- (a) except as used in subsection (b) of this section, means emissions of any air contaminant which escape to the atmosphere from any point or area that is not identifiable as a stack, vent, duct, or equivalent opening.
  - (b) as used to define a major federal operating permit program source, means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening:
- (~~46~~48) "General permit" means a federal operating permit that meets the requirements of OAR 340-28-2170.
- (~~47~~49) "Growth Increment" means an allocation of some part of an airshed's capacity to accommodate future new major sources and major modifications of sources.
- (~~48~~50) "Immediately" means as soon as possible but in no case more than one hour after the beginning of the excess emission period.
- (~~49~~51) "Insignificant Activity" means an activity or emission that the Department has designated as categorically insignificant, or that meets the criteria of exempt insignificant mixture usage or aggregate insignificant emissions.
- (~~50~~52) "Insignificant Change" means an off-permit change defined under OAR 340-28-2220(2)(a) to either a significant or an insignificant activity which:
- (a) does not result in a redesignation from an insignificant to a significant activity;
  - (b) does not invoke an applicable requirement not included in the permit; and
  - (c) does not result in emission of regulated air pollutants not regulated by the source's permit.
- (~~51~~53) "Insignificant Mixture" means a chemical mixture containing not more than 1% by weight of any chemical or compound regulated under Divisions 20 through 32 of this chapter, and not greater than 0.1% by weight of any carcinogen listed in the U.S. Department of Health and Human Service's Annual Report on Carcinogens.
- (~~52~~54) "Interim Emission Fee" means \$13 per ton for each assessable emission subject to emission fees under OAR 340-28-2420 for calculated, actual or permitted emissions released during calendar years 1991 and 1992.
- (~~53~~55) "Large Source" as used in OAR 340-28-1400 through 340-28-1450 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 air pollutant, or which is subject to a National Emissions Standard for Hazardous Air Pollutants (NESHAP). Where PSELS have been incorporated into the ACDP, the PSEL shall be used to determine actual emissions.
- (~~54~~56) "Late Payment" means a fee payment which is postmarked

after the due date.

(~~55~~57) "Lowest Achievable Emission Rate" or LAER" means that rate of emissions which reflects: the most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable; or the most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent. In no event, shall the application of this term permit a proposed new or modified source to emit any air contaminant in excess of the amount allowable under applicable New Source Performance Standards (NSPS) or standards for hazardous air pollutants.

(~~56~~58) "Major Modification" ~~{as used in this Division}~~ means any physical change or change of operation of a source that would result in a net significant emission rate increase ~~{(as defined in OAR 340-28-110)}~~ for any regulated air pollutant ~~{subject to regulation under the Act}~~. This criteria also applies to any pollutants not previously emitted by the source. Calculations of net emission increases shall take into account all accumulated increases and decreases in actual emissions occurring at the source since ~~{January 1, 1978}~~ the baseline period, or since the time of the last construction approval issued for the source pursuant to the New Source Review Regulations in OAR 340-28-1900 through 340-28-2000 for that pollutant, whichever time is more recent. Emissions from insignificant activities shall be included in the calculation of net emission increases. Emission decreases required by rule shall not be included in the calculation of net emission increases. If accumulation of emission increases results in a net significant emission rate increase, the modifications causing such increases become subject to the New Source Review requirements, including the retrofit of required controls.

(~~57~~59) "Major Source":  
(a) ~~{as used in OAR 340-28-1900 through 340-28-2000, New Source Review}~~ except as provided in subsections (b) and (c) of this section, means a source which emits, or has the potential to emit, any regulated air pollutant ~~{regulated under the Clean Air Act}~~ at a Significant Emission Rate, as defined in this rule. Emissions from insignificant activities shall be included in determining if a source is a major source.

(b) as used in OAR 340-28-2100 through 340-28-2320, Rules Applicable to Sources Required to Have Federal Operating Permits, and OAR 340-28-1740, Synthetic Minor Sources, means any stationary source, or any group of stationary sources that are located on one or more contiguous or adjacent properties and are under common control of the same person (or persons under common control), belonging to a single major industrial grouping or are supporting the major industrial group and that are described in paragraphs (A), (B), or (C)

of this subsection. For the purposes of this subsection, a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual (U.S. Office of Management and Budget, 1987) or support the major industrial group.

- (A) A major source of hazardous air pollutants, which is defined as:
- (i) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutants which has been listed pursuant to OAR 340-32-130, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well, with its associated equipment, and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or
  - (ii) For radionuclides, "major source" shall have the meaning specified by the Administrator by rule.
- (B) A major stationary source of air pollutants, as defined in section 302 of the Act, that directly emits or has the potential to emit, 100 tpy or more of any regulated air pollutant, including any major source of fugitive emissions of any such pollutant. The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act, unless the source belongs to one of the following categories of stationary source:
- (i) Coal cleaning plants (with thermal dryers);
  - (ii) Kraft pulp mills;
  - (iii) Portland cement plants;
  - (iv) Primary zinc smelters;
  - (v) Iron and steel mills;
  - (vi) Primary aluminum ore reduction plants;
  - (vii) Primary copper smelters;
  - (viii) Municipal incinerators capable of charging more than 250 tons of refuse per day;
  - (ix) Hydrofluoric, sulfuric, or nitric acid plants;
  - (x) Petroleum refineries;
  - (xi) Lime plants;
  - (xii) Phosphate rock processing plants;
  - (xiii) Coke oven batteries;

- (xiv) Sulfur recovery plants;
  - (xv) Carbon black plants (furnace process);
  - (xvi) Primary lead smelters;
  - (xvii) Fuel conversion plants;
  - (xviii) Sintering plants;
  - (xix) Secondary metal production plants;
  - (xx) Chemical process plants;
  - (xxi) Fossil-fuel boilers, or combination thereof, totaling more than 250 million British thermal units per hour heat input;
  - (xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
  - (xxiii) Taconite ore processing plants;
  - (xxiv) Glass fiber processing plants;
  - (xxv) Charcoal production plants;
  - (xxvi) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or
  - (xxvii) All other stationary source categories regulated by a standard promulgated under section 111 or 112 of the Act, but only with respect to those air pollutants that have been regulated for that category;
- (C) A major stationary source as defined in part D of Title I of the Act, including:
- (i) For ozone nonattainment areas, sources with the potential to emit 100 tpy or more of VOCs or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tpy or more in areas classified as "serious," 25 tpy or more in areas classified as "severe," and 10 tpy or more in areas classified as "extreme"; except that the references in this paragraph to 100, 50, 25, and 10 tpy of nitrogen oxides shall not apply with respect to any source for which the Administrator has made a finding, under section 182(f)(1) or (2) of the Act, that requirements under section 182(f) of the Act do not apply;
  - (ii) For ozone transport regions established pursuant to section 184 of the Act, sources with the potential to emit 50 tpy or more of VOCs;
  - (iii) For carbon monoxide nonattainment areas
    - (I) that are classified as "serious," and
    - (II) in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tpy or more of carbon monoxide;
  - (iv) For particulate matter (PM<sub>10</sub>) nonattainment areas classified as "serious," sources with the potential to emit 70 tpy or more of PM<sub>10</sub>.
- (c) as used in OAR 340-28-2400 through 340-28-2550, Major Source Interim Emission Fees, means a permitted stationary source or group of stationary sources located within a contiguous area and under common control or any stationary facility or source of air

pollutants which directly emits, or is permitted to emit:

- (A) One hundred tons per year or more of any regulated pollutant, or
  - (B) Fifty tons per year or more of a VOC and is located in a serious ozone nonattainment area.
- (~~158~~60) "Material Balance" means a procedure for determining emissions based on the difference in the amount of material added to a process and the amount consumed and/or recovered from a process.
- (~~159~~61) "Nitrogen Oxides" or "NO<sub>x</sub>" means all oxides of nitrogen except nitrous oxide.
- (~~160~~62) "Nonattainment Area" means a geographical area of the State which exceeds any state or federal primary or secondary ambient air quality standard as designated by the Environmental Quality Commission or the EPA.
- (~~161~~63) "Non-exempt Insignificant Mixture Usage" means use, consumption, or generation of insignificant mixtures which the Department considers integral to the primary business activity, including fuels, raw materials, and end products.
- (~~162~~64) "Normal Source Operation" means operations which do not include such conditions as forced fuel substitution, equipment malfunction, or highly abnormal market conditions.
- (~~162~~65) "Offset" means an equivalent or greater emission reduction which is required prior to allowing an emission increase from a new major source or major modification of a source.
- (~~163~~66) "Ozone Season" means the contiguous 3 month period of the year during which ozone exceedances typically occur (i.e., June, July, and August).
- (~~164~~67) "Particulate Matter" means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by an applicable reference method in accordance with the Department's Source Sampling Manual, (January, 1992).
- (~~165~~68) "Permit" means an Air Contaminant Discharge Permit or a federal operating permit issued pursuant to this Division.
- (~~166~~69) "Permit modification" means a revision to a permit that meets the applicable requirements of OAR 340-28-1700 through 340-28-1790, OAR 340-28-1900 through 340-28-2000, or OAR 340-28-2240 through 340-28-2260.
- (~~167~~70) "Permit revision" means any permit modification or administrative permit amendment.
- (~~168~~71) "Permitted Emissions" as used in OAR 340-28-2400 through 340-28-2550 means each assessable emission portion of the PSEL.
- (~~169~~72) "Permittee" means the owner or operator of the facility, in whose name the operation of the source is authorized by the ACDP or the federal operating permit.
- (~~170~~73) "Person" means the United States Government and agencies thereof, any state, individual, public or private corporation, political subdivision, governmental agency, municipality, industry, co-partnership, association, firm, trust, estate, or

- any other legal entity whatsoever.
- (~~741~~74) "Plant Site Emission Limit" or "PSEL" means the total mass emissions per unit time of an individual air pollutant specified in a permit for a source. The PSEL for a major source may consist of more than one assessable emission.
- (~~721~~75) "PM<sub>10</sub>"
- (a) when used in the context of emissions, means finely divided solid or liquid material, including condensible particulate, other than uncombined water, with an aerodynamic diameter less than or equal to a nominal 10 micrometers, emitted to the ambient air as measured by an applicable reference method in accordance with the Department's Source Sampling Manual (January, 1992); (Renumbered from OAR 340-20-520(21))
- (b) when used in the context of ambient concentration, means airborne finely divided solid or liquid material with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured in accordance with 40 CFR Part 50, Appendix J (July, 199~~2~~3).
- (~~731~~76) "Potential to emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by the Administrator. This definition does not alter or affect the use of this term for any other purposes under the Act, or the term "capacity factor" as used in Title IV of the Act or the regulations promulgated thereunder. Secondary emissions shall not be considered in determining the potential to emit of a source.
- (~~741~~77) "Process Upset" means a failure or malfunction of a production process or system to operate in a normal and usual manner.
- (~~751~~78) "Proposed permit" means the version of a federal operating permit that the Department or Lane Regional Air Pollution Authority proposes to issue and forwards to the Administrator for review in compliance with OAR 340-28-2310.
- (79) "Reference method" means any method of sampling and analyzing for an air pollutant as specified in 40 CFR Part 60, 61 or 63 (July 1, 1993).**
- (~~761~~80) "Regional Authority" means Lane Regional Air Pollution Authority.
- (~~771~~81) "Regulated air pollutant" or "Regulated Pollutant":
- (a) as used in OAR 340-28-100 through 340-28-2320 means:
- (A) Nitrogen oxides or any VOCs;
- (B) Any pollutant for which a national ambient air quality standard has been promulgated;
- (C) Any pollutant that is subject to any standard promulgated under section 111 of the Act;
- (D) Any Class I or II substance subject to a standard promulgated under or established by Title VI of the

- Act; or
- (E) Any pollutant listed under OAR 340-32-130 or OAR 340-32-5400.
- (b) as used in OAR 340-28-2400 through 340-28-2550 means PM<sub>10</sub>, Sulfur Dioxide (SO<sub>2</sub>), Oxides of Nitrogen (NO<sub>x</sub>), Lead (Pb), VOC, and Carbon Monoxide (CO); and any other pollutant subject to a New Source Performance Standard (NSPS) such as Total Reduced Sulfur (TRS) from kraft pulp mills and Fluoride (F) from aluminum mills.
- ~~(78)82~~ "Renewal" means the process by which a permit is reissued at the end of its term.
- ~~[(79) "Resource Recovery Facility" means any facility at which municipal solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing municipal solid waste for reuse. Energy conversion facilities shall utilize municipal solid waste to provide 50% or more of the heat input to be considered a resource recovery facility. (Renumbered from OAR 340-20-225(23))]~~
- ~~(80)83~~ "Responsible official" means one of the following:
- (a) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:
- (A) the facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or
- (B) the delegation of authority to such representative is approved in advance by the Department or Lane Regional Air Pollution Authority;
- (b) For a partnership or sole proprietorship: a general partner or the proprietor, respectively;
- (c) For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of this Division, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of the EPA); or
- (d) For affected sources:
- (A) The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Act or the regulations promulgated thereunder are concerned; and
- (B) The designated representative for any other purposes under the federal operating permit program.
- ~~(81)84~~ "Secondary Emissions" means emissions from new or existing sources which occur as a result of the construction and/or operation of a source or modification, but do not come from the source itself. Secondary emissions shall be specific, well defined,

quantifiable, and impact the same general area as the source associated with the secondary emissions. Secondary emissions may include, but are not limited to:

- (a) Emissions from ships and trains coming to or from a facility;
  - (b) Emissions from off-site support facilities which would be constructed or would otherwise increase emissions as a result of the construction of a source or modification.
- (~~182~~85) "Section 111" means that section of the FCAA that includes Standards of Performance for New Stationary Sources (NSPS).
  - (~~183~~86) "Section 111(d)" means that subsection of the FCAA that requires states to submit plans to the EPA which establish standards of performance for existing sources and provides for the implementation and enforcement of such standards.
  - (~~184~~87) "Section 112" means that section of the FCAA that contains regulations for Hazardous Air Pollutants (HAP).
  - (~~185~~88) "Section 112(b)" means that subsection of the FCAA that includes the list of hazardous air pollutants to be regulated.
  - (~~186~~89) "Section 112(d)" means that subsection of the FCAA that directs the EPA to establish emission standards for sources of hazardous air pollutants. This section also defines the criteria to be used by the EPA when establishing the emission standards.
  - (~~187~~90) "Section 112(e)" means that subsection of the FCAA that directs the EPA to establish and promulgate emissions standards for categories and subcategories of sources that emit hazardous air pollutants.
  - (~~188~~91) "Section 112(r)(7)" means that subsection of the FCAA that requires the EPA to promulgate regulations for the prevention of accidental releases and requires owners or operators to prepare risk management plans.
  - (~~189~~92) "Section 114(a)(3)" means that subsection of the FCAA that requires enhanced monitoring and submission of compliance certifications for major sources.
  - (~~190~~93) "Section 129" means that section of the FCAA that requires the EPA to establish emission standards and other requirements for solid waste incineration units.
  - (~~191~~94) "Section 129(e)" means that subsection of the FCAA that requires solid waste incineration units to obtain federal operating permits.
  - (~~192~~95) "Section 182(f)" means that subsection of the FCAA that requires states to include plan provisions in the State Implementation Plan for NO<sub>x</sub> in ozone nonattainment areas.
  - (~~193~~96) "Section 182(f)(1)" means that subsection of the FCAA that requires states to apply those plan provisions developed for major VOC sources and major NO<sub>x</sub> sources in ozone nonattainment areas.
  - (~~194~~97) "Section 183(e)" means that subsection of the FCAA that requires the EPA to study and develop regulations for the control of certain VOC sources under federal ozone



- measures.
- (~~195~~98) "Section 183(f)" means that subsection of the FCAA that requires the EPA to develop regulations pertaining to tank vessels under federal ozone measures.
  - (~~196~~99) "Section 184" means that section of the FCAA that contains regulations for the control of interstate ozone air pollution.
  - (~~197~~100) "Section 302" means that section of the FCAA that contains definitions for general and administrative purposes in the Act.
  - (~~198~~101) "Section 302(j)" means that subsection of the FCAA that contains definitions of "major stationary source" and "major emitting facility."
  - (~~199~~102) "Section 328" means that section of the FCAA that contains regulations for air pollution from outer continental shelf activities.
  - (~~100~~103) "Section 408(a)" means that subsection of the FCAA that contains regulations for the Title IV permit program.
  - (~~101~~104) "Section 502(b)(10) change" means a change that contravenes an express permit term but is not a change that:
    - (a) would violate applicable requirements;
    - (b) would contravene federally enforceable permit terms and conditions that are monitoring, recordkeeping, reporting, or compliance certification requirements; or
    - (c) is a Title I modification.
  - (~~102~~105) "Section 504(b)" means that subsection of the FCAA that states that the EPA can prescribe by rule procedures and methods for determining compliance and for monitoring.
  - (~~103~~106) "Section 504(e)" means that subsection of the FCAA that contains regulations for permit requirements for temporary sources.
  - (~~104~~107) "Significant Air Quality Impact" means an ambient air quality impact which is equal to or greater than those set out in Table 1. For sources of VOC or NO<sub>x</sub>, a major source or major modification will be deemed to have a significant impact if it is located within 30 kilometers of an ozone nonattainment area and is capable of impacting the nonattainment area.

Table 1  
OAR 340-28-110

~~Significant Ambient Air Quality Impact Levels  
Which is Equal to or Greater Than~~

Pollutant	Pollutant Averaging Time				
	Annual	24-Hour	8-Hour	3-Hour	1-Hour
SO <sub>2</sub>	1.0 ug/m <sup>3</sup>	5 ug/m <sup>3</sup>		25 ug/m <sup>3</sup>	
TSP or PM <sub>10</sub>	.2 ug/m <sup>3</sup>	1.0 ug/m <sup>3</sup>			
NO <sub>2</sub>	1.0 ug/m <sup>3</sup>				
CO			0.5 mg/m <sup>3</sup>		2 mg/m <sup>3</sup>

~~(105)108~~ "Significant emission rate" means ~~the~~ (a) through (c) of this section, means emission rates equal to or greater than the following for air pollutants regulated under the Clean Air Act: rates specified in Table 2.

Table 2  
OAR 340-28-110

Significant Emission Rates for Pollutants  
Regulated Under the Clean Air Act

Significant Pollutant	Emission Rate
(A) Carbon Monoxide	100 tons/year
(B) Nitrogen Oxides (NO <sub>x</sub> )	40 tons/year
(C) Particulate Matter <del>[-]</del>	25 tons/year
(D) PM <sub>10</sub>	15 tons/year
(E) Sulfur Dioxide	40 tons/year
(F) VOC <del>[-]</del>	40 tons/year
(G) Lead	0.6 ton/year
(H) Mercury	0.1 ton/year
(I) Beryllium	0.0004 ton/year
(J) Asbestos	0.007 ton/year
(K) Vinyl Chloride	1 ton/year
(L) Fluorides	3 tons/year
(M) Sulfuric Acid Mist	7 tons/year
(N) Hydrogen Sulfide	10 tons/year
(O) Total reduced sulfur (including hydrogen sulfide)	10 tons/year
(P) Reduced sulfur compounds (including hydrogen sulfide)	10 tons/year
<u>(Q) Municipal waste combustor organics (measured as total tetra- through octa- chlorinated dibenzo-p-dioxins and dibenzofurans)</u>	<u>0.0000035 ton/year</u>
<u>(R) Municipal waste combustor metals (measured as particulate matter)</u>	<u>15 tons/year</u>
<u>(S) Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride)</u>	<u>40 tons/year</u>

~~(a) [NOTE: -] For the Medford-Ashland Air Quality Maintenance Area, and the Klamath Falls Urban Growth Area, the Significant Emission Rate for particulate matter is defined in Table 3. [Note: -] For the Klamath Falls Urban Growth Area, the Significant Emission Rates in Table 3 for particulate matter apply to all new or modified sources for which permit applications have not been submitted prior to June 2, 1989[-], particulate emission increases of 5.0 or more tons per year shall be fully offset, but the application of LAER is not required unless the emission increase is 15 or more tons per year. At the option of owners or operators of sources with particulate emissions of 5.0 or more but, less than 15 tons per year, LAER control technology may be applied in lieu of offsets[-].~~

Table 3  
OAR 340-28-110

Significant Emission Rates for the Nonattainment  
Portions of the Medford-Ashland Air Quality  
Maintenance Area and the Klamath Falls Urban Growth Area

Air Contaminant	Annual		Day		Hour	
	Kilograms	(tons)	Kilogram	(lbs)	kilogram	(lbs)

Particulate Matter 4,500 (5.0) 23 (50.0) 4.6 (10.0)  
or PM<sub>10</sub>~~†~~

- (b) For regulated air pollutants not listed ~~above~~ in Table 2 or 3, the Department shall determine the rate that constitutes a significant emission rate~~†~~.
- (c) Any new source or modification with an emissions increase less than the~~se~~ rates specified in Table 2 or 3 associated with a new source or modification which would construct within 10 kilometers of a Class I area, and would have an impact on such area equal to or greater than 1 ug/m<sup>3</sup> (24 hour average) shall be deemed to be emitting at a significant emission rate ~~{(see Table 1)}~~.
- ~~(†106)~~109 "Significant Impairment" occurs when visibility impairment in the judgment of the Department interferes with the management, protection, preservation, or enjoyment of the visual experience of visitors within a Class I area. The determination shall be made on a case-by-case basis considering the recommendations of the Federal Land Manager; the geographic extent, intensity, duration, frequency, and time of visibility impairment. These factors will be considered with respect to visitor use of the Class I areas, and the frequency and occurrence of natural conditions that reduce visibility.
- ~~(†107)~~110 "Small Source" means any stationary source with a regular ACDP (not a letter permit or a minimal source permit) or a federal operating permit which is not classified as a large source.
- ~~(†108)~~111 "Source":
- (a) except as provided in subsection (b) of this section, means any building, structure, facility, installation or combination thereof which emits or is capable of emitting air contaminants to the atmosphere and is located on one or more contiguous or adjacent properties and is owned or operated by the same person or by persons under common control.
- (b) as used in OAR 340-28-1900 through 340-28-2000, New Source Review, and the definitions of "BACT", "Commenced", "Construction", "Emission Limitation", "Emission Standard", "LAER", "Major Modification", "Major Source", "Potential to Emit", and "Secondary Emissions" as these terms are used for purposes of OAR 340-28-1900 through 340-28-2000, includes all pollutant emitting activities which belong to a single major industrial group (i.e., which have the same two-digit code) as described in the Standard Industrial Classification Manual, (U.S. Office of Management and Budget, 1987) or are supporting the major industrial group.
- ~~(†109)~~112 "Source category":
- (a) except as ~~used in OAR 340-28-2400 through 340-28-2550~~ provided in subsection (b) of this section, means all the pollutant emitting activities which belong to the same industrial grouping (i.e., which

- have the same two-digit code) as described in the **Standard Industrial Classification Manual**, (U.S. Office of Management and Budget, 1987).
- (b) as used in OAR 340-28-2400 through 340-28-2550, Major Source Interim Emission Fees, means a group of major sources determined by the Department to be using similar raw materials and having equivalent process controls and pollution control equipment.
- ~~(110)~~113 "Source Test" means the average of at least three test runs during operating conditions representative of the period for which emissions are to be determined, conducted in accordance with the Department's Source Sampling Manual or other Department approved methods.
- ~~(111)~~114 "Startup" and "shutdown" means that time during which an air contaminant source or emission-control equipment is brought into normal operation or normal operation is terminated, respectively.
- ~~(112)~~115 "Stationary source" means any building, structure, facility, or installation that emits or may emit any regulated air pollutant.
- ~~(113)~~116 "Substantial Underpayment" means the lesser of ten percent (10%) of the total interim emission fee for the major source or five hundred dollars.
- ~~(114)~~117 "Synthetic minor source" means a source which would be classified as a major source under OAR 340-28-110, but for physical or operational limits on its potential to emit air pollutants contained in an ACDP issued by the Department under OAR 340-28-1700 through 340-28-1790.
- ~~(115)~~118 "Title I modification" means one of the following modifications pursuant to Title I of the FCAA:
- (a) a major modification subject to OAR 340-28-1930, Requirements for Sources in Nonattainment Areas;
  - (b) a major modification subject to OAR 340-28-1940, **Prevention of Significant Deterioration** Requirements for Sources in Attainment or Unclassified Areas ~~{(Prevention of Significant Deterioration)}~~;
  - (c) a change which is subject to a New Source Performance Standard under Section 111 of the FCAA; or
  - (d) a modification under Section 112 of the FCAA.
- (119) "Total Suspended Particulate" or "TSP" means particulate matter as measured by the reference method described in 40 CFR Part 50, Appendix B (July 1, 1993).
- ~~(116)~~120 "Total Reduced Sulfur" or "TRS" means the sum of the sulfur compounds hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide, and any other organic sulfides present expressed as hydrogen sulfide (H<sub>2</sub>S).
- (121) "Typically Achievable Control Technology" or "TACT" means the emission limit established on a case-by-case basis for a criteria pollutant from a particular emissions unit in accordance with OAR 340-28-630. For existing sources, the emission limit established shall be typical of the emission level achieved by emissions units similar in type and size. For new and modified sources, the emission limit established shall be typical of the emission level achieved

by well controlled new or modified emissions units similar in type and size that were recently installed. TACT determinations shall be based on information known to the Department considering pollution prevention, impacts on other environmental media, energy impacts, capital and operating costs, cost effectiveness, and the age and remaining economic life of existing emission control equipment. The Department may consider emission control technologies typically applied to other types of emissions units where such technologies could be readily applied to the emissions unit. If an emission limitation is not feasible, a design, equipment, work practice, or operational standard, or combination thereof, may be required.

- (~~117~~122) "Unavoidable" or "could not be avoided" 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.
- (~~118~~123) "Upset" or "Breakdown" means any failure or malfunction of any pollution control equipment or operating equipment which may cause an excess emission.
- (~~119~~124) "Verified Emission Factor" means an emission factor approved by the Department and developed for a specific major source or source category and approved for application to that major source by the Department.
- (~~120~~125) "Visibility Impairment" means any humanly perceptible change in visual range, contrast or coloration from that which would have existed under natural conditions. Natural conditions include fog, clouds, windblown dust, rain, sand, naturally ignited wildfires, and natural aerosols.
- (~~121~~126) "Volatile Organic Compounds" or "VOC" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions.
- (a) This includes any such organic compound other than the following, which have been determined to have negligible photochemical reactivity: Methane; ethane; methylene chloride (dichloromethane); 1,1,1-trichloroethane (methyl chloroform); 1,1,1-trichloro-2,2,2-trifluoroethane (CFC-113); Trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (CFC-22); trifluoromethane (FC-23); 1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123); 1,1,1,2-tetrafluoroethane (HFC-134a); 1,1-dichloro 1-fluoroethane (HCFC-141b); 1-chloro 1,1-difluoroethane (HCFC-142b); 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124); pentafluoroethane 2 (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HFC-152a); and

perfluorocarbon compounds which fall into these classes:

- (A) Cyclic, branched, or linear, completely fluorinated alkanes;
  - (B) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
  - (C) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
  - (D) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.
- (b) For purposes of determining compliance with emissions limits, VOC will be measured by an applicable reference method in accordance with the Department's Source Sampling Manual, January, 1992. Where such a method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds, as listed in subsection (a), may be excluded as VOC if the amount of such compounds is accurately quantified, and such exclusion is approved by the Department.
- (c) As a precondition to excluding these compounds, as listed in subsection (a), as VOC or at any time thereafter, the Department may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the satisfaction of the Department, the amount of negligibly-reactive compounds in the source's emissions.

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from OAR 340-20-033.04; DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83; DEQ 18-1984, f. & ef. 10-16-84; DEQ 8-1988, f. & cert. ef. 5-19-88 (and corrected 5-31-88); DEQ 14-1989, f. & cert. ef. 6-26-89; DEQ 42-1990, f. 12-13-90, cert. ef. 1-2-91; AQ 14, f. & ef. 1-23-92; AQ 23, f. & ef. 11-12-92; Renumbered from OAR 340-20-145; Renumbered from OAR 340-20-225; Renumbered from OAR 340-20-305; Renumbered from OAR 340-20-355; Renumbered from OAR 340-20-460; Renumbered from OAR 340-20-520

## Highest and Best Practicable Treatment and Control Required

### General Provisions

~~340-28-600 Notwithstanding the general and specific emission standards and regulations contained in this Division, the~~

- (1) As specified in OAR 340-28-610 through 340-28-640 and sections (2) through (5) of this rule, the highest and best practicable treatment and control of air contaminant emissions shall in every case be provided so as to maintain overall air quality at the highest possible levels, and to maintain contaminant concentrations, visibility reduction, odors, soiling and other deleterious factors at the lowest possible levels. In the case of new sources of air contamination, particularly those located in areas with existing high air quality, the degree of treatment and control provided shall be such that degradation of existing air quality is minimized to the greatest extent possible.

- (2) A source shall be deemed to be in compliance with section (1) of this rule if the source is in compliance with all other applicable emission standards and requirements contained in Divisions 20 through 32 of this Chapter, including but not limited to requirements applicable to:
- (a) Specific pollutants in Divisions 21 and 22;
  - (b) Specific existing and new source categories in Division 25;
  - (c) Specific areas of the state in Division 30;
  - (d) Hazardous Air Pollutants in Division 32;
  - (e) Control requirements and operational and maintenance requirements in OAR 340-28-620 through 340-28-640; and
  - (f) Review of new major sources and major modifications in OAR 340-28-1900 through 340-28-2000.
- (3) The Commission may adopt additional rules as necessary to ensure that the highest and best practicable treatment and control is provided as specified in section (1) of this rule. Such rules may include, but are not limited to, requirements:
- (a) Applicable to a source category, pollutant or geographic area of the state;
  - (b) Necessary to protect public health and welfare for air contaminants that are not otherwise regulated by the Commission; or
  - (c) Necessary to address the cumulative impact of sources on air quality.
- (4) The Commission encourages the owner or operator of a source to further reduce emissions from the source beyond applicable control requirements where feasible.
- (5) Nothing in OAR 340-28-600 through 340-28-640 revokes or modifies any existing permit term or condition unless or until the Department revokes or modifies the term or condition by a permit revision. Adoption of OAR 340-28-600 through 340-28-640 is not intended to withdraw authority for application of any existing policy for new sources of toxic and hazardous air pollutants to a federal operating permit program source until the effective date of the program.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; AQ 1-1993, f. & ef. 3-9-93; Renumbered from 340-20-001

### Pollution Prevention

340-28-610 The owner and operator of a source is encouraged to take into account the overall impact of the control methods selected, considering risks to all environmental media and risks from all affected products and processes. The owner or operator of a source is encouraged, but not required, to utilize the following hierarchy in controlling air contaminant emissions:

- (1) Modify the process, raw materials or product to reduce the toxicity and/or quantity of air contaminants generated;
- (2) Capture and reuse air contaminants;
- (3) Treat to reduce the toxicity and/or quantity of air

- contaminants released; or  
(4) Otherwise control emissions of air contaminants.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EOC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Operating and Maintenance Requirements

340-28-620

(1) Operational, Maintenance and Work Practice Requirements.

(a) Where the Department has determined that specific operational, maintenance, or work practice requirements are appropriate to ensure that the owner or operator of a source is operating and maintaining air pollution control equipment and emission reduction processes at the highest reasonable efficiency and effectiveness to minimize emissions, the Department shall establish such requirements by permit condition or notice of construction approval.

(b) Operational, maintenance and work practice requirements include:

(A) flow rates, temperatures and other physical or chemical parameters related to the operation of air pollution control equipment and emission reduction processes;

(B) monitoring, record-keeping, testing and sampling requirements and schedules;

(C) maintenance requirements and schedules;

or  
(D) requirements that components of air pollution control equipment be functioning properly.

(2) Emission Action Levels.

(a) Where the Department has determined that specific operational, maintenance, or work practice requirements considered or required under section (1) of this rule are not sufficient to ensure that the owner or operator of a source is operating and maintaining air pollution control equipment and emission reduction processes at the highest reasonable efficiency and effectiveness, the Department may establish, by permit or Notice of Construction approval, specific emission action levels in addition to applicable emission standards. An emission action level shall be established at a level which ensures that an air pollution control equipment or emission reduction process is operated at the highest reasonable efficiency and effectiveness to minimize emissions.

(b) If emissions from a source equal or exceed the applicable emission action level, the owner or operator of the source shall:

(A) Take corrective action as expeditiously as practical to reduce emissions to below the emission action level;



- (B) Maintain records at the plant site for 2 years which document the exceedance, the cause of the exceedance, and the corrective action taken;
  - (C) Make such records available for inspection by the Department during normal business hours; and
  - (D) Submit such records to the Department upon request.
- (c) The Department shall revise an emission action level if it finds that such level does not reflect the highest reasonable efficiency and effectiveness of air pollution control equipment and emission reduction processes.
- (d) An exceedance of an emission action level which is more stringent than an applicable emission standard shall not be a violation of such emission standard.
- (3) In determining the highest reasonable efficiency and effectiveness for purposes of this rule, the Department shall take into consideration operational variability and the capability of air pollution control equipment and emission reduction processes. If the performance of air pollution control equipment and emission reduction processes during start-up or shut-down differs from the performance under normal operating conditions, the Department shall determine the highest reasonable efficiency and effectiveness separately for these operating modes.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EOC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

#### Typically Achievable Control Technology

- 340-28-630
- (1) Existing Sources. The Department shall require an existing emissions unit to meet TACT for existing sources if:
- (a) The emissions unit, for the pollutants emitted, is not subject to emission standards under OAR 340-21-200 through 340-21-245, 340-22-100 through 340-22-220, Division 25 or 30 of this Chapter, or this Division at the time TACT is required;
  - (b) The source is required to have a permit;
  - (c) The emissions unit has emissions of criteria pollutants equal to or greater than 5 tons per year of particulate or 10 tons per year of any gaseous pollutant; and
  - (d) The Department determines that air pollution control equipment and emission reduction processes in use for the emissions unit do not represent TACT and that further emission control is necessary to address documented nuisance conditions, address an increase in emissions, ensure that the source is in compliance with other applicable requirements, or to protect public health or welfare or the environment.
- (2) New and Modified Sources. The Department shall require a new or modified emissions unit to meet TACT for new or

modified sources if:

- (a) The new or modified emissions unit, for the pollutants to be emitted, is not subject to New Source Review requirements in OAR 340-28-1900 through 340-28-2000, an applicable Standard of Performance for New Stationary Sources in OAR 340-25-505 through 340-25-805, or any other standard applicable only to new or modified sources in Division 25 or 30 of this Chapter at the time TACT is required;
  - (b) The source is required to have a permit;
  - (c) The emissions unit:
    - (A) If new, would have emissions of any criteria pollutant equal to or greater than 1 ton per year or of PM<sub>10</sub> equal to or greater than 500 pounds per year in a PM<sub>10</sub> nonattainment area; or
    - (B) If modified, would have an increase in emissions from the permitted level for the emissions unit of any criteria pollutant equal to or greater than 1 ton per year or of PM<sub>10</sub> equal to or greater than 500 pounds per year in a PM<sub>10</sub> nonattainment area; and
  - (d) The Department determines that the proposed air pollution control equipment and emission reduction processes do not represent TACT.
- (3) Prior to making a TACT determination, the Department shall notify the owner or operator of a source of its intent to make such determination utilizing information known to the Department. The owner or operator of the source may supply the Department with additional information by a reasonable date set by the Department for use in making the TACT determination.
- (4) The owner or operator of a source subject to TACT shall submit compliance plans and specifications by a reasonable date established by the Department for approval by the Department. The owner or operator of the source shall demonstrate compliance in accordance with a method and compliance schedule approved by the Department.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

#### Additional Control Requirements for Stationary Sources of Air Contaminants

340-28-640 The Department shall establish control requirements in addition to otherwise applicable requirements by permit if necessary as specified in sections (1) through (5) of this rule.

- (1) Requirements shall be established to prevent violation of an Ambient Air Quality Standard caused or projected to be caused substantially by emissions from the source as determined by modeling, monitoring or a combination thereof. For existing sources, the violation of an Ambient Air Quality Standard shall be confirmed by monitoring

- conducted by the Department.
- (2) Requirements shall be established to prevent significant impairment of visibility in Class I areas caused or projected to be caused substantially by a source as determined by modeling, monitoring or a combination thereof. For existing sources, the visibility impairment shall be confirmed by monitoring conducted by the Department.
  - (3) A requirement applicable to a major source shall be established if it has been adopted by EPA but has not otherwise been adopted by the Commission.
  - (4) An additional control requirement shall be established if requested by the owner or operator of a source.
  - (5) Requirements shall be established if necessary to protect public health or welfare for the following air contaminants and sources not otherwise regulated under Chapter 340, Division 20 through 32:
    - (a) Chemical weapons; and
    - (b) Combustion and degradation by-products of chemical weapons.

### Compliance Schedules

#### Compliance Schedules

340-28-700

- (1) The Department shall attempt to encourage voluntary cooperation of all persons responsible for an air contamination source, as defined by ORS 468A.005(4). To facilitate this cooperation and provide for a progressive program of air pollution control, the Department may negotiate with such persons a schedule of compliance. The schedule will set forth the dates and terms and conditions by which the person responsible for an air contamination source shall comply with applicable air quality rules or statutes:
  - (a) The schedule may be in lieu of a hearing and shall be in writing and signed by the Director of the Department or his designated officer and an authorized agent of the person responsible for the air contamination source. After the schedule is executed by both parties, it shall be confirmed by order of the Department;
  - (b) Compliance schedules providing for final compliance at a date later than 18 months from the date of execution shall contain requirements for periodic reporting and increments of progress toward compliance, at intervals of less than 18 months;
  - (c) No compliance schedule shall allow emissions on a permanent basis in excess of applicable standards and rules.
- (2) In the event a negotiated schedule of compliance cannot be established, the Department may set a show cause hearing as provided by ORS 468.090 at a date and time designated as to why an order implementing a schedule proposed by the Department should not be adopted, or take such other authorized action as may be warranted.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A  
Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; AQ 1-1993, f. & ef. 3-9-93, Renumbered from OAR 340-20-032

## Notice of Construction and Approval of Plans

### Requirement

#### 340-28-800

- (1) No person shall construct, install, or establish a new source of air contaminant emission without first notifying the Department in writing if such new source is:
  - (a) of any class listed in OAR 340-28-810(1); and
  - (b) not under the jurisdiction of a regional air quality control authority ~~without first notifying the Department in writing. OAR 340-28-800 through 340-28-820 shall not apply to federal operating permit program sources.~~
- (2) New construction, installation or establishment includes:
  - (a) Addition to or enlargement or replacement of an air contamination source;
  - (b) A major alteration or modification of an air contamination source that may significantly affect the emission of air contamination.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A  
Hist.: DEQ 15, f. 6-12-70, ef. 9-1-70; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-20-020

### Scope

#### 340-28-810

- (1) ~~This regulation~~ Except as provided in section (2) of this rule, OAR 340-28-800 through 340-28-820 shall apply to the following classes of sources of air contaminant emission:
  - (a) Air pollution control equipment;
  - (b) Fuel burning equipment rated at 400,000 BTU per hour or greater;
  - (c) Refuse burning equipment rated at 50 pounds per hour or greater;
  - (d) Open burning operations;
  - (e) Process equipment having emission to the atmosphere;
  - (f) Such other sources as the Department may determine to be potentially significant sources of air contamination.
- (2) OAR 340-28-800 through 340-28-820 shall not apply to federal operating permit program sources. ~~[New construction, installation or establishment includes:~~
  - ~~(a) Addition to or enlargement or replacement of an air contamination source;~~
  - ~~(b) A major alteration or modification of an air contamination source that may significantly affect the emission of air contamination.]~~

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 15, f. 6-12-70, ef. 9-1-70; DEQ 37, f. 2-15-72, ef. 3-1-72; AQ 1-1993, f. & ef. 3-9-93; Renumbered from 340-20-025

## Procedure

### 340-28-820

- (1) Notice of Construction. Any person intending to construct, install, or establish a new source of air contaminant emissions of a class listed in OAR 340-28-810(1) shall notify the Department in writing on a form supplied by the Department.
- (2) Submission of ~~{Plans and Specifications}~~Information. The Department may within 30 days of receipt of a Notice of Construction require any or all of the following information to be submitted:~~{the submission of plans and specifications for air pollution control equipment and facilities and their relationship to the production process. The following information may also be required:}~~
  - (a) Name, address, and nature of business;
  - (b) Name of local person responsible for compliance with these rules;
  - (c) Name of person authorized to receive requests for data and information;
  - (d) A description of the production processes and a related flow chart;
  - (e) A plot plan showing the location and height of all air contaminant sources. The plot plan shall also indicate the nearest residential or commercial property;
  - (f) Type and quantity of fuels used;
  - (g) Amount, nature and duration of air contaminant emissions;
  - (h) Plans and specifications for air pollution control equipment and facilities and their relationship to the production process;
  - ~~{h}i~~ Estimated efficiency of air pollution control equipment under present or anticipated operating conditions;
  - (j) Any information on pollution prevention measures and cross-media impacts the person wants the Department to consider in determining applicable control requirements and evaluating compliance methods;
  - (k) Where the operation or maintenance of air pollution control equipment and emission reduction processes can be adjusted or varied from the highest reasonable efficiency and effectiveness, information necessary for the Department to establish operational and maintenance requirements under OAR 340-28-620 (1) and (2);
  - ~~{i}l~~ Amount and method of refuse disposal; and
  - ~~{j}m~~ ~~{The Department may require e}~~Corrections and revisions to the plans and specifications to insure compliance with applicable rules, orders and statutes.
- (3) Notice of Approval:

- (a) The Department shall upon determining that the proposed construction is in the opinion of the Department in accordance with the provisions of applicable rules, order, and statutes, notify the person concerned that construction may proceed;
  - (b) A Notice of Approval to proceed with construction shall not relieve the owner of the obligation of complying with applicable emission standards and orders.
- (4) Order Prohibiting Construction:
- (a) If within 60 days of receipt of the items set forth in section (2) of this rule the Director determines that the proposed construction is not in accordance with applicable statutes, rules, regulations and orders, the Director shall issue an order prohibiting the construction, installation or establishment of the air contamination source. Said order is to be forwarded to the owner by certified mail;
  - (b) Failure to issue such order within the time prescribed herein shall be considered a determination that the proposed construction, installation, or establishment may proceed, provided that it is in accordance with plans, specifications, and any corrections or revisions thereto, or other information, if any, previously submitted, and provided further that it shall not relieve the owner of the obligation of complying with applicable emission standards and orders.
- (5) Hearing. Pursuant to law, a person against whom an order prohibiting construction is directed may within 20 days from the date of mailing of the order, demand a hearing. The demand shall be in writing, state the grounds for hearing, and be mailed to the Director of the Department. The hearing shall be conducted pursuant to the applicable provisions of ORS Chapter 183.
- (6) Notice of Completion. Within thirty (30) days after any person has constructed an air contamination source as defined under OAR 340-28-810(1), that person shall so report in writing on a form furnished by the Department, stating the date of completion of construction and the date the source was or will be put in operation.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 15, f. 6-12-70, ef. 9-1-70; DEQ 5-1989, f. 4-24-89 & cert. ef. 5-1-89; AQ 1-1993, f. & ef. 3-9-93; Renumbered from 340-20-030

### Plant Site Emission Limits

#### Policy

**340-28-1000** The Commission recognizes the need to establish a more definitive method for regulating increases and decreases in air emissions of ~~fair quality~~ permit holders as contained in OAR 340-28-1010 through 340-28-1060. However, by the adoption of

these rules, the Commission does not intend to: limit the use of existing production capacity of any air quality permittee (except for synthetic minor source permittees); cause any undue hardship or expense to any permittee due to the utilization of existing unused productive capacity; or create inequity within any class of permittees subject to specific industrial standards which are based on emissions related to production. PSELs can be established at levels higher than baseline provided a demonstrated need exists to emit at a higher level and PSD increments and air quality standards would not be violated and reasonable further progress in implementing control strategies would not be impeded.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 25-1981, f. & ef. 9-8-81; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-20-300

#### Requirement for Plant Site Emission Limits

##### 340-28-1010

- (1) PSELs shall be incorporated in all ACDPs and federal operating permits except minimal source permits and special letter permits as a means of managing airshed capacity. Except as provided in OAR 340-28-1050 or 340-28-1060, ~~a~~All sources subject to regular permit requirements shall be subject to PSELs for all ~~ifederal and state~~ regulated pollutants ~~except as required by OAR 340-28-1050 or 340-28-1060~~. PSELs will be incorporated in permits when permits are renewed, modified, or newly issued.
- (2) The emissions limits established by PSELs shall provide the basis for:
  - (a) Assuring reasonable further progress toward attaining compliance with ambient air standards;
  - (b) Assuring that compliance with ambient air standards and Prevention of Significant Deterioration increments are being maintained;
  - (c) Administering offset, banking and bubble programs;
  - (d) Establishing the baseline for tracking consumption of Prevention of Significant Deterioration Increments.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 25-1981, f. & ef. 9-8-81; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-20-301

#### Criteria for Establishing Plant Site Emission Limits

##### 340-28-1020

- (1) For existing sources, PSELs shall be based on the baseline emission rate for a particular pollutant at a source and shall be adjusted upward or downward pursuant to Department Rules:
  - (a) If an applicant requests that the PSEL be established at a rate higher than the baseline emission rate, the applicant shall:
    - (A) Demonstrate that the requested increase is less

- than the significant emission rate increase defined in OAR 340-28-110; or
- (B) Provide an assessment of the air quality impact pursuant to procedures specified in OAR 340-28-1930 to 340-28-1940. A demonstration that no air quality standard or PSD increment will be violated in an attainment area or that a growth increment or offset is available in a nonattainment area shall be sufficient to allow an increase in the PSEL to an amount not greater than the plant's demonstrated need to emit as long as no physical modification of an emissions unit is involved.
- (b) Increases above baseline emission rates shall be subject to public notice and opportunity for public hearing pursuant to ~~the Department's~~ applicable permit requirements.
- (2) PSELs shall be established on at least an annual emission basis and a short term period emission basis that is compatible with source operation and air quality standards.
- (3) Mass emission limits may be established separately within a particular source for process emissions, combustion emissions, and fugitive emissions.
- (4) Documentation of PSEL calculations shall be available to the permittee.
- (5) For new sources, PSELs shall be based on application of applicable control equipment requirements and projected operating conditions.
- (6) PSELs shall not be established which allow emissions in excess of those allowed by any applicable federal or state regulation or by any specific permit condition unless specific provisions of OAR 340-28-1030 are met.
- (7) PSELs may be changed pursuant to Department rules when:
- (a) Errors are found or better data is available for calculating PSELs;
- (b) More stringent control is required by a rule adopted by the ~~EQC~~ Commission;
- (c) An application is made for a permit modification pursuant to OAR 340-28-1700 through 340-28-1790, ACDPs, OAR 340-28-1900 through 340-28-2000, New Source Review, and approval can be granted based on growth increments, offsets, or available Prevention of Significant Deterioration increments, or OAR 340-28-2100 through 340-28-2320, Rules Applicable to Sources Required to Have Federal Operating Permits; or
- (d) The Department finds it necessary to initiate modifications of a permit pursuant to OAR 340-14-040, Modification of a Permit or OAR 340-28-2280, Reopenings.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 25-1981, f. & ef. 9-8-81; AQ 1-1993, f. & ef. 3-9-93; Renumbered from 340-20-310



**Plant Site Emission Limits for Sources of Hazardous Air Pollutants**

**340-28-1050**

- (1) For purposes of establishing PSELS, hazardous air pollutants listed under OAR 340-32-130 or OAR 340-32-5400 shall not be considered regulated pollutants under OAR 340-28-1010 until such time as the Commission determines otherwise.
- (2) The Department may establish PSELS for hazardous air pollutants for the following causes:
  - (a) an owner or operator elects to establish a PSEL for any hazardous air pollutant emitted for purposes of determining emission fees as prescribed in OAR 340-28-2400 through 340-28-2550 or,
  - (b) the source is subject to a hazardous air pollutant emission standard, limitation, or control requirement other than Plant Site Emission Limits.
- (3) Procedures for establishing and modifying PSELS for hazardous air pollutant emissions shall be consistent with OAR 340-28-1020 except for the following:
  - (a) a baseline emission rate shall not apply, and
  - (b) the provisions of OAR 340-28-1030 shall not apply.
- (4) PSELS established for hazardous air pollutants shall not be used for any provisions other than those prescribed in section (2) of this rule.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A  
Hist.: AQ 9-1993, f. & ef. 9-24-93

**Plant Site Emission Limits for Insignificant Activities**

**340-28-1060**

- (1) For purposes of establishing PSELS, emissions from categorically insignificant activities listed in OAR 340-28-110 shall not be considered regulated air pollutants under OAR 340-28-1010 until such time as the Commission determines otherwise, except as provided in section (3).
- (2) For purposes of establishing PSELS, emissions from non-exempt insignificant mixture usage and aggregate insignificant emissions listed in OAR 340-28-110 shall be considered regulated air pollutants under OAR 340-28-1010.
- (3) For purposes of determining New Source Review or Prevention of Significant Deterioration applicability, OAR 340-28-1900 through 340-28-2000, emissions from insignificant activities shall be considered.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A  
Hist.: AQ 9-1993, f. & ef. 9-24-93

**Sampling, Testing and Measurement of  
Air Contaminant Emissions**

Program

340-28-1100

(1) As part of its coordinated program of air quality control and preventing and abating air pollution, the Department may:

~~(11)a~~ Require any person responsible for emissions of air contaminants to make or have made tests to determine the type, quantity, quality, and duration of the emissions from any air contamination source.

~~(12)b~~ Require full reporting of all test procedures and results furnished to the Department in writing and signed by the person or persons responsible for conducting the tests.

~~(13)c~~ Require continuous monitoring of specified air contaminant emissions and periodic regular reporting of the results of such monitoring.

(2) At the request of the Department, an owner or operator of a source required to conduct emissions tests may be required to provide emission testing facilities as follows:

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

(b) Utilities for sampling and testing equipment.

(3) Testing shall be conducted in accordance with the Department's Source Sampling Manual (January, 1992), the Department's Continuous Monitoring Manual (January, 1992), or an applicable EPA Reference Method unless the Department, where allowed under applicable federal requirements:

(a) Specifies or approves, in specific cases, minor changes in methodology;

(b) Approves the use of an equivalent method or alternative method which will provide adequate results;

(c) Waives the requirement for tests because the owner or operator of a source has demonstrated by other means to the Department's satisfaction that the affected facility is in compliance with applicable requirements; or

(d) Approves shorter sampling times and smaller sample volumes when necessitated by process variables or other factors.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 15, f. 6-12-70, ef. 9-1-70; AQ 1-1993, f. & ef. 3-9-93; Renumbered from 340-20-035

Stack Heights and Dispersion Techniques

340-28-1110

(1) ~~[Title 40], Code of Federal Regulations,] CFR Parts 51.100(ff) through 51.100(kk), 51.118, 51.160 through 51.166[, as published on July 1, 1991, is] (July 1, 1993) are by this reference adopted and incorporated herein, concerning stack heights and dispersion techniques.~~

- (2) In general, the rule prohibits the use of excessive stack height and certain dispersion techniques when calculating compliance with ambient air quality standards. The rule does not forbid the construction and actual use of excessively tall stacks, nor use of dispersion techniques; it only forbids their use in calculations as noted above.
- (3) The rule has the following general applicability. With respect to the use of excessive stack height, stacks 65 meters high or greater, constructed after December 31, 1970, and major modifications to existing plants after December 31, 1970 with stacks 65 meters high or greater which were constructed before that date, are subject to this rule, with the exception that certain stacks at federally-owned, coal-fired steam electric generating units constructed under a contract awarded before February 8, 1974, are exempt. With respect to the use of dispersion techniques, any technique implemented after December 31, 1970, at any plant is subject to this rule. However, if the plant's total allowable emissions of sulfur dioxide are less than 5,000 tons per year, then certain dispersion techniques to increase final exhaust gas plume rise are permitted to be used when calculating compliance with ambient air quality standards for sulfur dioxide:
- (a) Where found in the federal rule, the term "reviewing agency" means the Department, LRAPA, or the EPA, as applicable;
  - (b) Where found in the federal rule, the term "authority administering the State Implementation Plan" means Department, LRAPA, or EPA;
  - (c) The "procedures" referred to in 40 CFR 51.118(1) are the New Source Review procedures at the Department (OAR 340-28-1900 to 340-28-2000) or at LRAPA (Title 38), and the review procedures for new, or modifications to, minor sources, at the Department (OAR 340-28-800 to 340-28-820, 340-28-1700 to 340-28-1790) or at LRAPA (Title 34 and OAR 38-045);
  - (d) Where "the state" or "state, or local control agency" is referred to in 40 CFR 51.112(j), it means the Department or LRAPA;
  - ~~(e) Where 40 CFR 51.1(kk) refers to the prevention of significant deterioration program and cites 40 CFR 51.24, it means the EPA approved new source review rules of the Department or LRAPA (see 40 CFR 52.1987), where they cover prevention of significant deterioration;~~
  - ~~(f) Where found in the federal rule, the terms "applicable state implementation plan" and "plan" refer to the programs and rules of the Department or LRAPA, as approved by the EPA, or any EPA-promulgated regulations (see 40 CFR Part 52, Subpart MM).~~

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

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

### **Records; Maintaining and Reporting**

#### **340-28-1140**

- (1) Upon notification from the Director~~[of the Department]~~, all persons owning or operating a ~~[stationary air contaminant]~~ source within the state shall ~~[commence to]~~ keep and maintain written records of the nature, type and amounts of emissions from such source and other information as may be required by the Director to determine whether such is in compliance with applicable emission rules, limitations or other control measures.
- (2) The records shall be prepared in the form of a report and submitted to the Department on a semi-annual basis, or more frequent basis if requested in writing by the Department, commencing with the first full semi-annual period after the Director's notification to such persons owning or operating a stationary air contaminant source of these record-keeping requirements. Except as may be otherwise provided by rule, semi-annual periods are January 1 to June 30, July 1 to December 31. A more frequent basis for reporting may be required due to noncompliance or to protect human health or the environment.
- (3) The reports required by this rule shall be completed on forms approved by the Department and shall be submitted within 30 days after the end of each reporting period.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 44(Temp), f. & ef. 5-5-72; DEQ 48, f. 9-20-72, ef. 10-1-72; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-20-046

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

### **Enhanced Monitoring and Testing**

Reserved: 340-28-1200 through 340-28-1390

### **Excess Emissions and Emergency Provision**

#### **Planned Startup and Shutdown**

##### **340-28-1410**

- (1) For 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 new procedures or modifications to existing procedures shall be submitted and received by the Department in writing at least seventy-two (72) hours prior to the first occurrence of a startup or shutdown event to which these procedures apply, and shall include the following:
  - (a) The reasons why the excess emissions during startup

- and shutdown cannot be avoided;
  - (b) Identification of the specific production process or system that causes 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; and
  - (d) Identification of specific procedures to be followed which will minimize excess emissions at all times during startup and shutdown.
- (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 340-28-1440(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 340-28-1450.
- (3) Once startup/shutdown procedures are approved, owners or operators shall not be required to notify the Department of a planned startup or shutdown event which may result in excess emissions unless:
- (a) required by permit condition; or
  - (b) if the source is located in a nonattainment area for a pollutant which may be emitted in excess of applicable standards.
- (4) When required by subsection (3)(a) or (b) of this rule, notification shall be made by telephone or in writing as soon as possible prior to the startup or shutdown event and shall include the date and estimated time and duration of the event.
- (5) The Department may revoke or require modifications to previously approved procedures at any time by written notification to the owner or operator.
- (6) No startups or shutdowns resulting in excess emissions associated with the approved procedures in ~~{OAR 340-28-1410}~~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<sub>10</sub> Nonattainment Areas.
- (7) The permittee shall immediately notify the Department by telephone of a startup or shutdown event and shall be subject to the requirements under Upsets and Breakdowns in OAR 340-28-1430 if the permittee fails to:
- (a) Obtain Department approval of startup/shutdown procedures in accordance with OAR ~~{340-28-1410}~~section (1) of this rule; or
  - (b) Notify the Department of a startup or shutdown event which may result in excess emissions in accordance with ~~{OAR 340-28-1410}~~section (3) of this rule.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan adopted under OAR 340-20-047.]

### Scheduled Maintenance

#### 340-28-1420

- (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 new procedures or modifications to existing procedures shall be submitted and received by the Department in writing at least seventy-two (72) hours prior to the first occurrence of a maintenance event to which these procedures apply, 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 during the scheduled maintenance.
- (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 340-28-1440(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 340-28-1450.
- (3) Once maintenance procedures are approved, owners or operators shall not be required to notify the Department of a scheduled maintenance event which may result in excess emissions unless:
  - (a) required by permit condition; or
  - (b) if the source is located in a nonattainment area for a pollutant which may be emitted in excess of applicable standards.
- (4) When required by subsection (3)(a) or (b) of this rule, notification shall be made by telephone or in writing as soon as possible prior to the scheduled maintenance event

- and shall include the date and estimated time and duration of the event.
- (5) The Department may revoke or require modifications to previously approved procedures at any time by written notification to the owner or operator.
  - (6) No scheduled maintenance associated with the approved procedures in ~~ORAR 340-28-1420~~ 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<sub>10</sub> Nonattainment Areas.
  - (7) The permittee shall immediately notify the Department by telephone of a maintenance event and shall be subject to the requirements under Upsets and Breakdowns in OAR 340-28-1430 if the permittee fails to:
    - (a) Obtain Department approval of maintenance procedures in accordance with ~~ORAR 340-28-1420~~ section (1) of this rule; or
    - (b) Notify the Department of a maintenance event which may result in excess emissions in accordance with OAR 340-28-1420(3).

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan adopted under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 42-1990, f. 12-13-90, cert. ef. 1-2-91; Renumbered from OAR 340-20-365

### **Upsets and Breakdowns**

#### **340-28-1430**

- (1) For upsets or breakdowns caused by an emergency and resulting in emissions in excess of technology-based standards, the owner or operator may be entitled to an affirmative defense to enforcement if:
  - (a) the Department is notified immediately of the emergency condition; and
  - (b) the owner or operator fulfills requirements outlined in the Emergency Provision in OAR 340-28-1460.
- (2) In the case of all other upsets and breakdowns, the following requirements apply:
  - (a) For large sources, as defined by OAR 340-28-110, the first onset per calendar day of any excess emissions event due to upset or breakdown, other than those described in ~~ORAR 340-28-1430~~ section (1) of this rule, shall be reported to the Department immediately unless otherwise specified by permit condition. Based on the severity of the event, the Department will either require submittal of a written report pursuant to OAR 340-28-1440(1) and (2), or a recording of the event in the upset log as required in OAR 340-28-1440(3).
  - (b) The owner or operator of a s[small source], as defined by OAR 340-28-110, need not report excess emissions events due to upset or breakdown immediately unless otherwise required by: permit

condition; written notice by the Department; ~~to OAR 340-28-1430~~ subsection (1)(a) of this rule; or if 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 OAR 340-28-1440(1) and (2), or a recording of the event in the upset log as required in OAR 340-28-1440(3).

- (3) During any period of excess emissions due to upset or breakdown, the Department may require that an owner or operator 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 owner or operator 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 owner or operator need not cease operation if he or she 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 cannot 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 OAR 340-28-1410(1)(b), (c), and (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 ~~to OAR 340-28-1440~~ section (3) of this rule. At any time during the period of excess emissions the Department may require the owner or operator to cease operation of the equipment or facility, in accordance with OAR 340-28-1430(3). 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 OAR 340-28-1450.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan adopted under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 42-1990, f. 12-13-90, cert. ef. 1-2-91; Renumbered from OAR 340-20-370

### Reporting Requirements

#### 340-28-1440

- (1) For any excess emissions event, the Department may require the owner or operator to submit a written excess emission report for each calendar day of the event. If required, this report shall be submitted within fifteen (15) days of the date of the event and shall include the following:
  - (a) The date and time the event was reported to the Department;
  - (b) Whether the event occurred during startup, shutdown, maintenance, or as a result of a breakdown or malfunction;
  - (c) Information as described in OAR 340-28-1450(1) through (5);
  - (d) The final resolution of the cause of the excess emissions; and
  - (e) Where applicable, evidence supporting any claim that emissions in excess of technology-based limits were due to an emergency pursuant to OAR 340-28-1460.
- (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 owner or operator shall record the event in the upset log pursuant to ~~OAR 340-28-1440~~ section (3) of this rule.
- (3) Large and small source owners or operators shall keep an upset log of all planned and unplanned excess emissions. The upset log shall include all pertinent information as required in ~~OAR 340-28-1440~~ section (1) of this rule and shall be kept by the permittee for five (5) calendar years.
- (4) At each annual reporting period specified in a permit, or sooner if required by the Department, the permittee shall submit:
  - (a) A copy of upset log entries for the reporting period, and
  - (b) Where applicable, current procedures to minimize emissions during startup, shutdown, or maintenance as outlined in OAR 340-28-1410 and OAR 340-28-1420. The owner or operator shall specify in writing whether these procedures are new, modified, or have already been approved by the Department.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan adopted under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 42-1990, f. 12-13-90, cert. ef. 1-2-91; Renumbered from OAR 340-20-375

### **Emergency Provision**

#### **340-28-1460**

- (1) Effect of an emergency. An emergency constitutes an affirmative defense to noncompliance with technology-based emission limits if the source meets criteria specified in OAR 340-28-1450(1) through (6).
- (2) The permittee seeking to establish the occurrence of an emergency has the burden of proof.
- (3) This provision is in addition to any emergency or upset provision contained in any applicable requirement.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EOC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A  
Hist.: AQ 9-1993, f. & ef. 9-24-93

### **Emission Statements for VOC and NO<sub>x</sub> Sources in Ozone Nonattainment Areas**

### **Purpose and Applicability**

#### **340-28-1500**

- (1) The purpose of these rules is to obtain data on actual emissions of VOCs and NO<sub>x</sub> from sources in ozone nonattainment areas, in accordance with FCAA requirements, for the purpose of monitoring progress toward attainment of the ozone national ambient air quality standard.
- (2) This rule shall apply to sources of VOC and NO<sub>x</sub> in ozone nonattainment areas, with a PSEL equal to or greater than 25 tons per year for either pollutant, and to any source whose actual emissions ~~exceeds~~ are equal to or greater than 25 tons per year.
- (3) For purposes of establishing consistent emission reporting requirements, owners or operators of VOC and NO<sub>x</sub> sources already subject to the Department's Interim Emission Fee Rules, OAR 340-28-2400 through 340-28-2550, and electing to pay fees based on actual emissions shall report emission data to the Department, utilizing procedures identified in those rules to calculate actual VOC and NO<sub>x</sub> emissions, to the extent applicable. Owners or operators of other sources shall use current and applicable emission factors and actual production data to estimate and report actual emissions.

Stat. Auth.: ORS Ch. 468A  
Hist.: AQ 23-1992, f. & ef. 11-12-92; Renumbered from OAR 340-20-450

### **Requirements**

#### **340-28-1510**

- (1) Owners or operators of VOC and NO<sub>x</sub> sources subject to this rule shall annually submit data on the actual average emissions during the ozone season to the Department. Emission Statements submitted by the owner or operator to

the Department shall contain the following information:

- (a) Certification that the information contained in the statement is accurate to the best knowledge of the certifying individual.
  - (b) Source identification information: full name, physical location, mailing address of the facility, and permit number.
  - (c) Emissions information:
    - (A) Estimated actual VOC and/or NO<sub>x</sub> emissions for those emissions ~~never~~ equal to or greater than 25 tons per year, on an average weekday basis during the preceding year's ozone season, by source category; and
    - (B) Calendar year for the ozone season; and
    - (C) Each emission factor used and reference source for the emission factor, if applicable, or indicate other estimation method or procedure used to calculate emissions (e.g., material balance, source test, or continuous monitoring).
- (2) Owners or operators of sources subject to these rules shall keep records at the plant site of the information used to calculate actual emissions pursuant to these rules. These records shall contain all applicable operating data, process rate data, and control equipment efficiency information and other information used to calculate or estimate actual emissions, and shall be available for the Department's review, or submitted upon request. Such records shall be kept by the owner or operator for three (3) calendar years after submittal of the emission statement.

Stat. Auth.: ORS 468A

Hist.: AQ 23-1992, f. & ef. 11-12-92; AQ 1-1993, f. & ef. 3-9-93; Renumbered from 340-20-470

### Air Contaminant Discharge Permits

#### Permit Required

340-28-1720

- (1) No person shall construct, install, establish, develop or operate any air contaminant source which is referred to in **Table 4**, appended hereto and incorporated herein by reference, without first obtaining an Air Contaminant Discharge Permit (ACDP) ~~permit~~ from the Department or Regional Authority.
- (2) No person shall construct, install, establish, or develop any major source, as defined by OAR 340-28-2110 that will be subject to the federal operating permit program without first obtaining an ACDP from the Department or Regional Authority. Any federal operating permit program source required to have obtained an ACDP prior to construction shall:
  - (a) choose to become a synthetic minor source, OAR 340-28-1740, and remain in the ACDP program; or
  - (b) file a complete application to obtain the federal operating permit within 12 months after initial startup.

- (3) No person shall modify any source covered by an ACDP ~~permit~~ under OAR 340-28-1700 through 340-28-1790 such that the emissions are significantly increased without first applying for and obtaining a ~~modified~~ permit modification.
- (4) No person shall modify any source required to be covered by an ACDP ~~permit~~ under OAR 340-28-1700 through 340-28-1790 such that the source becomes subject to the federal operating permit program, OAR 340-28-2100 through 340-28-2320 without first applying for and obtaining a modified ACDP. Any federal operating permit program source required to have obtained an ACDP prior to modification shall:
- (a) choose to become a synthetic minor source, OAR 340-28-1740, and remain in the ACDP program;
  - (b) choose to remain a synthetic minor source, OAR 340-28-1740, and remain in the ACDP program; or
  - ~~(b)(c)~~ file a complete application to obtain the federal operating permit within 12 months after initial startup of the modification.
- (5) No person shall increase emissions above the PSEL or operate in excess of the enforceable condition to limit potential to emit and remain a synthetic minor source without first applying for and obtaining a modified ACDP.
- (6) No person shall modify any source covered by an ACDP ~~permit~~ under OAR 340-28-1700 through 340-28-1790 and not required to obtain a federal operating permit such that:
- (a) The process equipment is substantially changed or added to; or
  - (b) The emissions are significantly changed without first notifying the Department.
- (7) Any owner or operator may apply to the Department or Regional Authority for a special letter permit if operating a facility with no, or insignificant, air contaminant discharges. The determination of applicability of this special permit shall be made solely by the Department or Regional Authority having jurisdiction. If issued a special permit, the application processing fee and/or annual compliance determination fee, provided by OAR 340-28-1750, may be waived by the Department or Regional Authority.
- (8) The Department may designate any source as a "Minimal Source" based upon the following criteria:
- (a) Quantity and quality of emissions;
  - (b) Type of operation;
  - (c) Compliance with Department regulations; and
  - (d) Minimal impact on the air quality of the surrounding region. If a source is designated as a minimal source, the annual compliance determination fee, provided by OAR 340-28-1750, will be collected ~~in conjunction with plant site compliance inspections which will occur~~ no less frequently than every five (5) years.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-20-033.08; DEQ 125, f. & ef. 12-16-76; DEQ 20-1979, f. & ef. 6-29-79; DEQ 23-1980, f. & ef. 9-26-80; DEQ 13-1981, f.

### Multiple-Source Permit

**340-28-1730** When a single site includes more than one air contaminant source, a single ACDP ~~[permit]~~ may be issued including all sources located at the site. For uniformity such applications shall separately identify by subsection each air contaminant source included from **Table 4**.

- (1) When a single air contaminant source which is included in a multiple-source ACDP ~~[permit]~~, is subject to permit modification, revocation, suspension, or denial, such action by the Department or Regional Authority shall only affect that individual source without thereby affecting any other source subject to the permit.
- (2) When a multiple-source ACDP ~~[permit]~~ includes air contaminant sources subject to the jurisdiction of the Department and the Regional Authority, the Department may require that it shall be the permit issuing agency. In such cases, the Department and the Regional Authority shall otherwise maintain and exercise all other aspects of their respective jurisdictions over the permittee.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-20-003.10; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-20-160

### Synthetic Minor Sources

#### **340-28-1740**

- (1) Enforceable conditions to limit a source's potential to emit shall be included in the ACDP for a synthetic minor source. Enforceable conditions, in addition to the PSEL established under OAR 340-28-1000 through 340-28-1060, shall include one or more of the following physical or operational limitations but in no case shall exceed the conditions used to establish the PSEL:
  - (a) restrictions on hours of operation;
  - (b) restrictions on levels of production;
  - (c) restrictions on the type or amount of material combusted, stored, or processed;
  - (d) additional air pollution control equipment; or
  - (e) other limitations on the capacity of a source to emit air pollutants.
- (2) The reporting and monitoring requirements of the conditions which limit the potential to emit contained in the ACDP of synthetic minor sources shall meet the requirements of OAR 340-28-1100 through 340-28-1140.
- (3) To avoid being required to submit an application for a federal operating permit, the owner or operator of a major source ~~[, as defined by OAR 340-28-2110,]~~ shall obtain an ACDP or a modification to an ACDP containing conditions that would qualify the source as a synthetic minor source

- before the owner or operator would be required to submit a federal operating permit application.
- (4) Applications for synthetic minor source status shall be subject to notice procedures of OAR 340-28-1710.
  - (5) Synthetic minor source owners or operators who cause their source to be subject to the federal operating permit program by requesting an increase in the source's potential to emit, when that increase uses the source's existing capacity and does not result from construction or modification, shall:
    - (a) become subject to OAR 340-28-2100 through 340-28-2320;
    - (b) submit a federal operating permit application ~~under~~ pursuant to OAR 340-28-2120; and
    - (c) receive a federal operating permit before commencing operation in excess of the enforceable condition to limit potential to emit.
  - (6) Synthetic minor source owners or operators who cause their source to be subject to the federal operating permit program by requesting an increase in the source's potential to emit, when that increase is the result of construction or modification, shall:
    - (a) submit an application for the modification of the existing ACDP;
    - (b) receive the modified ACDP before beginning construction or modification;
    - (c) become subject to OAR 340-28-2100 through 340-28-2320; and
    - (d) submit a federal operating permit application under OAR 340-28-2120 to obtain a federal operating permit within 12 months after initial startup of the construction or modification.
  - (7) Synthetic minor sources that exceed the limitations on potential to emit are in violation of OAR 340-28-2110(1)(a).

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EOC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A  
 Hist.: AQ 9-1993, f. & ef. 9-24-93

**Fees and Permit Duration**  
**340-28-1750**

- (1) All persons required to obtain an ACDP ~~{permit}~~ shall be subject to a three part fee consisting of a uniform non-refundable filing fee of \$75, an application processing fee, and an annual compliance determination fee which are determined by applying **Table 4**. The amount equal to the filing fee, application processing fee, and the annual compliance determination fee shall be submitted as a required part of any application for a new ACDP ~~{permit}~~. The amount equal to the filing fee and the application processing fee shall be submitted with any application for ~~{modification of}~~ a permit modification. The amount equal to the filing fee, application processing fee, and the annual compliance determination fee shall be submitted with any application for

- a renewed ACDP~~{permit}~~.
- (2) The fee schedule contained in the listing of air contaminant sources in **Table 4** shall be applied to determine the permit fees, on a Standard Industrial Classification (SIC) plant site basis.
  - (3) Modifications of existing, unexpired ACDPs~~{permits}~~ which are instituted by the Department or Regional Authority due to changing conditions or standards, receipts or additional information, or any other reason pursuant to applicable statutes and do not require refiling or review of an application or plans and specifications shall not require submission of the filing fee or the application processing fee.
  - (4) Applications for multiple-source ACDPs~~{permits}~~ received pursuant to OAR 340-28-1730 shall be subject to a single \$75 filing fee. The application processing fee and annual compliance determination fee for multiple-source ACDPs~~{permits}~~ shall be equal to the total amounts required by the individual sources involved, as listed in **Table 4**.
  - (5) The annual compliance determination fee shall be paid at least 30 days prior to the start of each subsequent permit year. Failure to timely remit the annual compliance determination fee in accordance with the above shall be considered grounds for not issuing an ACDP~~{permit}~~ or revoking an existing ACDP~~{permit}~~.
  - (6) If an ACDP~~{permit}~~ is issued for a period less than one (1) year, the applicable annual compliance determination fee shall be equal to the full annual fee. If an ACDP~~{permit}~~ is issued for a period greater than 12 months, the applicable annual compliance determination fee shall be prorated by multiplying the annual compliance determination fee by the number of months covered by the permit and dividing by twelve (12).
  - (7) In no case shall an ACDP~~{permit}~~ be issued for more than ten (10) years, except for synthetic minor source permits which shall not be issued for more than five (5) years.
  - (8) Upon accepting an application for filing, the filing fee shall be non-refundable.
  - (9) When an air contaminant source which is in compliance with the rules of a permit issuing agency relocates or proposes to relocate its operation to a site in the jurisdiction of another permit issuing agency having comparable control requirements, application may be made and approval may be given for an exemption of the application processing fee. The ACDP~~{permit}~~ application and the request for such fee reduction shall be accompanied by:
    - (a) A copy of the ACDP~~{permit}~~ issued for the previous location; and
    - (b) Certification that the permittee proposes to operate with the same equipment, at the same production rate, and under similar conditions at the new or proposed location. Certification by the agency previously having jurisdiction that the source was operated in compliance with all rules and regulations will be acceptable should the previous ACDP~~{permit}~~ not indicate such compliance.
  - (10) If a temporary or conditional ACDP~~{permit}~~ is issued in

- accordance with adopted procedures, fees submitted with the application for an ACDP shall be retained and be applicable to the regular permit when it is granted or denied.
- (11) All fees shall be made payable to the permit issuing agency.
  - (12) Pursuant to ORS 468A.135, a regional authority may adopt fees in different amounts than set forth in **Table 4** provided such fees are adopted by rule and after hearing and in accordance with ORS 468.065(2).
  - (13) The owner or operator of a source which ~~is~~ temporarily not conducting permitted activities, for reasons other than regular maintenance or seasonal limitations, may apply for use of a modified annual compliance determination fee in lieu of an annual compliance determination fee determined by applying **Table 4**. A request for use of the modified annual compliance determination fee shall be submitted to the Department in writing along with the modified annual compliance determination fees on or before the due date of the annual compliance determination fee. The modified annual compliance determination fee shall be \$250.
  - (14) Owners or operators who have received Department approval for payment of a modified annual compliance determination fee shall obtain authorization from the Department prior to resuming permitted activities. Owners or operators shall submit written notification to the Department at least thirty (30) days before startup specifying the earliest anticipated startup date, and accompanied by:
    - (a) Payment of the full annual compliance determination fee determined from **Table 4** if greater than six (6) months would remain in the billing cycle for the source, or
    - (b) Payment of 50% of the annual compliance determination fee determined from **Table 4** if six (6) months or less would remain in the billing cycle.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A  
Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-20-033.12; DEQ 125, f. & ef. 12-16-76; DEQ 20-1979, f. & ef. 6-29-79; DEQ 11-1983, f. & ef. 5-31-83; DEQ 6-1986, f. & ef. 3-26-86; DEQ 12-1987, f. & ef. 6-15-87; DEQ 17-1990, f. & cert. ef. 5-25-90; AQ 4-1992, f. & ef. 12-2-91; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-20-165

## **Procedures For Obtaining Permits**

**340-28-1760**

Submission and processing of applications for ACDPs ~~(permits)~~ and issuance, denial, modification, and revocation, of ACDP ~~(permits)~~ shall be in accordance with duly adopted procedures of the permit issuing agency.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A  
Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-20-033.14; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-20-170



## Other Requirements

340-28-1770

- (1) Any person intending to obtain an ACDP to construct, install, or establish a new or modified source of air contaminant emissions as required in OAR 340-28-1720 shall submit a completed application on forms provided by the Department or at least the following information:
  - (a) Name, address, and nature of business;
  - (b) A description of the production processes and a related flow chart;
  - (c) A plot plan showing location of all air contaminant sources and the nearest residential or commercial property;
  - (d) Type and quantity of fuels used;
  - (e) Amount, nature, and duration of emissions;
  - (f) Plans and specifications for air pollution control equipment and facilities and their relationship to the production process;
  - ~~(g)~~ Estimated efficiency of air pollution control equipment~~;~~;
  - (h) Any information on pollution prevention measures and cross-media impacts the person wants the Department to consider in determining applicable control requirements and evaluating compliance methods; and
  - (i) Where the operation or maintenance of air pollution control equipment and emission reduction processes can be adjusted or varied from the highest reasonable efficiency and effectiveness, information necessary for the Department to establish operational and maintenance requirements under OAR 340-28-620 (1) and (2).
- (2) Any person complying with section (1) of this rule shall be exempted from complying with the notice of construction requirements of OAR 340-28-800 and 340-28-820.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-20-033.16; DEQ 20-1979, f. & ef. 6-29-79; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-20-175

## Registration Exemption

~~340-28-1780 [Air contaminant sources constructed and operated under a permit issued pursuant to these regulations shall be exempted from registration as required by ORS 468A.050 and OAR 340-28-500 through 340-28-520.]~~

~~[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-20-047.]~~

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Hist.: [DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-20-033.18; DEQ 20-1979, f. & ef. 6-29-79; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-20-180; Repealed by DEQ]~~

## New Source Review

### Applicability

### 340-28-1900

- (1) No owner or operator shall begin construction of a major source or a major modification of an air contaminant source without having received an ACDP from the Department and having satisfied OAR 340-28-1900 through 340-28-2000 of these rules.
- (2) Owners or operators of proposed non-major sources or non-major modifications are not subject to these New Source Review rules. Such owners or operators are subject to other Department rules including Highest and Best Practicable Treatment and Control Required, OAR 340-28-600 through 340-28-640, Notice of Construction and Approval of Plans, OAR 340-28-800 through 340-28-820, ACDPs, OAR 340-28-1700 through 340-28-1790, Emission Standards for Hazardous Air Contaminants, OAR 340-25-450 through 340-25-485, and Standards of Performance for New Stationary Sources, OAR 340-25-505 through 340-25-545.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 25-1981, f. & ef. 9-8-81; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-20-220

### Procedural Requirements

#### 340-28-1910

- (1) Information Required. The owner or operator of a proposed major source or major modification shall submit all information necessary to perform any analysis or make any determination required under these rules. Such information shall include, but not be limited to:
  - (a) A description of the nature, location, design capacity, and typical operating schedule of the source or modification, including specifications and drawings showing its design and plant layout;
  - (b) An estimate of the amount and type of each air contaminant emitted by the source in terms of hourly, daily, and yearly rates, showing the calculation procedure;
  - (c) A detailed schedule for construction of the source or modification;
  - (d) A detailed description of the ~~system of continuous~~ air pollution control equipment and emission reduction processes which ~~is~~ are planned for the source or modification, and any other information necessary to determine that BACT or LAER technology, whichever is applicable, would be applied;
  - (e) To the extent required by these rules, an analysis of the air quality and/or visibility impact of the source or modification, including meteorological and topographical data, specific details of models used, and other information necessary to estimate air quality impacts; and
  - (f) To the extent required by these rules, an analysis of the air quality and/or visibility impacts, and the nature and extent of all commercial, residential, industrial, and other source emission growth which has occurred since January 1, 1978, in the area the source or modification would affect.

- (g) The owner or operator of a source for which a federal operating permit has been issued who applies for a permit to construct or modify under OAR 340-28-1900 through 340-28-2000 may request that an enhanced New Source Review process be used, including the external review procedures required under OAR 340-28-2290 and OAR 340-28-2310 instead of the notice procedures under this rule to allow for subsequent incorporation of the construction permit as an administrative amendment. All information required under OAR 340-28-2120 shall be submitted as part of any such request.
- (2) Other Obligations:
- (a) Any owner or operator who constructs or operates a source or modification not in accordance with the application submitted pursuant to OAR 340-28-1900 through 340-28-2000 or with the terms of any approval to construct, or any owner or operator of a source or modification subject to OAR 340-28-1900 who commences construction without applying for and receiving an ACDP, shall be subject to appropriate enforcement action;
- (b) Approval to construct shall become invalid if construction is not commenced within 18 months after receipt of such approval, if construction is discontinued for a period of 18 months or more, or if construction is not completed within 18 months of the scheduled time. The Department may extend the 18-month period upon satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase shall commence construction within 18 months of the projected and approved commencement date;
- (c) Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the State Implementation Plan and any other requirements under local, state or federal law.
- (d) Approval to construct a source under an ACDP issued under ~~OAR 340-28-1910~~ paragraph (3)(b)(I) of this rule shall authorize construction and operation of the source until the later of:
- (A) One year from the date of initial startup of operation of the major source or major modification, or
- (B) If a timely and complete application for a federal operating permit is submitted, the date of final action by the Department on the federal operating permit application.
- (3) Public Participation:
- (a) Within 30 days after receipt of an application to construct, or any addition to such application, the Department shall advise the applicant of any deficiency in the application or in the information submitted. The date of the receipt of a complete application shall be, for the purpose of this section, the date on which the Department received all required information;
- (b) Notwithstanding the requirements of OAR 340-14-020 or OAR 340-28-2120, but as expeditiously as possible and at least within six months after receipt of a complete

application, the Department shall make a final determination on the application. This involves performing the following actions in a timely manner:

- (A) Make a preliminary determination whether construction should be approved, approved with conditions, or disapproved;
- (B) Make available for a 30-day period in at least one location a copy of the permit application, a copy of the preliminary determination, and a copy or summary of other materials, if any, considered in making the preliminary determination;
- (C) Notify the public, by advertisement in a newspaper of general circulation in the area in which the proposed source or modification would be constructed, of the application, the preliminary determination, the extent of increment consumption that is expected from the source or modification, the opportunity for a public hearing and for written public comment and, if applicable, that an enhanced New Source Review process, including the external review procedures required under OAR 340-28-2290 and OAR 340-28-2310, is being used to allow for subsequent incorporation of the operating approval into a federal operating permit as an administrative amendment;
- (D) Send a copy of the notice of opportunity for public comment to the applicant and to officials and agencies having cognizance over the location where the proposed construction would occur as follows: The chief executives of the city and county where the source or modification would be located, any comprehensive regional land use planning agency, any State, Federal Land Manager, or Indian Governing Body whose lands may be affected by emissions from the source or modification, and the EPA;
- (E) Upon determination that significant interest exists, or upon written requests for a hearing from ten (10) persons or from an organization or organizations representing at least ten persons, provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the source or modification, alternatives to the source or modification, the control technology required, and other appropriate considerations. For energy facilities, the hearing may be consolidated with the hearing requirements for site certification contained in OAR Chapter 345, Division 15;
- (F) Consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing(s) in making a final decision on the approvability of the application. No later than 10 working days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The Department shall consider the applicant's response in making a final decision. The Department shall make all comments available for public inspection in the same locations where the Department made available preconstruction information relating to the proposed

- source or modification;
- (G) Make a final determination whether construction should be approved, approved with conditions, or disapproved pursuant to this section;
  - (H) Notify the applicant in writing of the final determination and make such notification available for public inspection at the same location where the Department made available preconstruction information and public comments relating to the source or modification.
  - (I) After the effective date of Oregon's program to implement the federal operating permit program, the owner or operator of a source subject to OAR 340-28-2110 who has received a permit to construct or modify under OAR 340-28-1900 through 340-28-2000 shall submit an application for a federal operating permit within one year of initial startup of the construction or modification. The federal operating permit application shall include the following information:
    - (i) information required by OAR 340-28-2120, if not previously included in the ACDP application;
    - (ii) a copy of the existing ACDP;
    - (iii) information on any changes in the construction or operation from the existing ACDP, ~~if applicable~~; and
    - (iv) any monitoring or source test data obtained during the first year of operation.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 18-1984, f. & ef. 10-16-84; DEQ 13-1988, f. & cert. ef. 6-17-88; AQ 1-1993, f. & ef. 3-9-93; Renumbered from 340-20-230

#### **Requirements for Sources in Nonattainment Areas 340-28-1930**

Proposed new major sources and major modifications which would emit a nonattainment pollutant within a designated nonattainment areas, including VOC or NO<sub>x</sub> in a designated Ozone Nonattainment Area, shall meet the requirements listed below:

- (1) LAER. The owner or operator of the proposed major source or major modification shall demonstrate that the source or modification will comply with the LAER for each nonattainment pollutant which is emitted at or above the significant emission rate. In the case of a major modification, the requirement for LAER shall apply only to each new or modified emission unit which increases emissions. For phased construction projects, the determination of LAER shall be reviewed at the latest reasonable time prior to commencement of construction of each independent phase.
- (2) Source Compliance. The owner or operator of the proposed major source or major modification shall demonstrate that all major sources owned or operated by such person (or by an entity controlling, controlled by, or under common control

- with such person) in the state are in compliance or on a schedule for compliance, with all applicable emission limitations and standards under the Act.
- (3) Offsets. The owner or operator of the proposed major source or major modification shall provide offsets as specified in OAR 340-28-1960 and 340-28-1970.
  - (4) Net Air Quality Benefit. For cases in which emission reductions or offsets are required, the applicant shall demonstrate that a net air quality benefit will be achieved in the affected area as described in OAR 340-28-1970 and that the reductions are consistent with reasonable further progress toward attainment of the air quality standards. Applicants in an ozone nonattainment area shall demonstrate that the proposed VOC or NO<sub>x</sub> offsets will result in a 10% net reduction in emissions, as required by OAR 340-28-1970(3)(c).
  - (5) Alternative Analysis:
    - (a) The owner or operator of a proposed new major source or major modification shall conduct an alternative analysis for each nonattainment pollutant emitted at or above the significant emission rate, except that no analysis shall be required for TSP;
    - (b) This analysis shall include an evaluation of alternative sites, sizes, production processes, and environmental control techniques for such proposed source or modification which demonstrates that benefits of the proposed source or modification significantly outweigh the environmental and social costs imposed as a result of its location, construction or modification.
  - (6) Special Exemption for the Salem Ozone Nonattainment Area. Proposed new major sources and major modifications which ~~emit VOCs and oxides of nitrogen at or above the significant emission rate and~~ are located in or impact the Salem Ozone Nonattainment Area ~~shall comply with the requirements of sections (1) and (2) of this rule but~~ are exempt from ~~all other~~ OAR 340-28-1970 and sections (3) through (5) of this rule for VOC and NO<sub>x</sub> emissions with respect to ozone formation in the Salem Ozone Nonattainment area.
  - (7) Special requirements for the Klamath Falls Urban Growth Area. For the Klamath Falls Urban Growth Area, particulate matter or PM<sub>10</sub> emission increases of 5.0 or more tons per year shall be fully offset, but the application of LAER is not required unless the emission increase is 15 or more tons per year. At the option of the owner or operator of a source with particulate matter or PM<sub>10</sub> emissions of 5.0 or more tons per year but less than 15 tons per year, LAER control technology may be applied in lieu of offsets.

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83; DEQ 27-1992, f. & ef. 11-12-92; AQ 1-1993, f. & ef. 3-9-93, Renumbered from 340-20-240

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-20-047.]

### Prevention of Significant Deterioration Requirements for Sources in

**Attainment or Unclassified Areas** ~~[(Prevention of Significant Deterioration)]~~

340-28-1940 New Major Sources or Major Modifications locating in areas designated attainment or unclassifiable shall meet the following requirements:

- (1) BACT. The owner or operator of the proposed major source or major modification shall apply BACT for each pollutant which is emitted at a significant emission rate. In the case of a major modification, the requirement for BACT shall apply only to each new or modified emission unit which increases emissions. For phased construction projects, the determination of BACT shall be reviewed at the latest reasonable time prior to commencement of construction of each independent phase.
- (2) Air Quality Analysis:
  - (a) The owner or operator of the proposed major source or major modification shall demonstrate that the ~~potential to emit~~ emissions of any pollutant at or above a significant emission rate ~~[, in conjunction with all other applicable emissions increases and decreases, including secondary emissions,]~~ would not cause or contribute to ~~air quality levels in excess of~~:
    - (A) An impact greater than significant air quality impact levels at any locality that does not or would not meet a ~~A~~ny state or national ambient air quality standard; ~~or~~
    - (B) An impact in excess of a ~~A~~ny applicable increment established by the Prevention of Significant Deterioration (PSD) requirements, OAR 340-31-110; or
    - (C) An impact greater than significant air quality impact levels on a designated nonattainment area ~~greater than the significant air quality impact levels~~. New sources or modifications of sources which would emit VOC ~~s~~ or NO<sub>x</sub> which may impact the Salem ozone nonattainment area are exempt from this ~~requirement~~ demonstration with respect to ozone formation.
  - (b) The demonstration under subsection (a) of this section shall include the potential to emit from the proposed major source or major modification, in conjunction with all other applicable emission increases and creditable decreases, and includes secondary emissions.
  - ~~(b+c)~~ The owner or operator of a s ~~s~~ source ~~s~~ or modification ~~s~~ with the potential to emit at rates greater than the significant emission rate but less than 100 tons/year, and ~~are greater~~ which is more than 50 kilometers from a nonattainment area, ~~then the owner or operator of that source or modification~~ is not required to assess ~~its~~ the impact of the source or modification on the nonattainment area ~~;~~.
  - ~~(e+d)~~ If the owner or operator of a proposed major source or major modification wishes to provide emission offsets such that a net air quality benefit, OAR 340-28-1970, is provided, the Department may consider the requirements of this section ~~[(2) of this rule]~~ to have been met.
- (3) Exemption for Sources Not Significantly Impacting or Contributing to Levels in Excess of Air Quality Standards or

PSD Increment Levels. ~~†~~

~~(a)~~ A proposed major source or major modification is exempt from sections (1), (5) and (6) of this rule ~~{OAR 340-28-1900 through 340-28-2000}~~ if ~~{paragraphs (A) and (B)}~~ subsections (a) and (b) of this ~~{sub}~~section are satisfied:

~~(A)~~ a The proposed major source or major modification does not:

(A) cause or contribute a significant air quality impact to air quality levels in excess of any state or national ambient air quality standard;

(B) cause or contribute to air quality levels in excess of any applicable increment established by the PSD requirements, OAR 340-31-110; or

(C) impact~~†~~ a designated nonattainment area; and

~~(B)~~ b The potential emissions of each regulated air pollutant from the source are less than 100 tons/year for sources in the following categories or less than 250 tons/year for sources not in the following source categories:

~~(i)~~ A Fossil fuel-fired steam electric plants of more than 250 million BTU/hour heat input;

~~(ii)~~ B Coal cleaning plants with thermal dryers;

~~(iii)~~ C Kraft pulp mills;

~~(iv)~~ D Portland cement plants;

~~(v)~~ E Primary Zinc Smelters;

~~(vi)~~ F Iron and Steel Mill Plants;

~~(vii)~~ G Primary aluminum ore reduction plants;

~~(viii)~~ H Primary copper smelters;

~~(ix)~~ I Municipal Incinerators capable of charging more than 250 tons of refuse per day;

~~(x)~~ J Hydrofluoric acid plants;

~~(xi)~~ K Sulfuric acid plants;

~~(xii)~~ L Nitric acid plants;

~~(xiii)~~ M Petroleum Refineries;

~~(xiv)~~ N Lime plants;

~~(xv)~~ O Phosphate rock processing plants;

~~(xvi)~~ P Coke oven batteries;

~~(xvii)~~ Q Sulfur recovery plants;

~~(xviii)~~ R Carbon black plants, furnace process;

~~(xix)~~ S Primary lead smelters;

~~(xx)~~ T Fuel conversion plants;

~~(xxi)~~ U Sintering plants;

~~(xxii)~~ V Secondary metal production plants;

~~(xxiii)~~ W Chemical process plants;

~~(xxiv)~~ X Fossil fuel fired boilers, or combinations thereof, totaling more than 250 million BTU per hour heat input;

~~(xxv)~~ Y Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

~~(xxvi)~~ Z Taconite ore processing plants;

~~(xxvii)~~ AA Glass fiber processing plants;

~~(xxviii)~~ BB Charcoal production plants.

~~(b)~~ Major modifications are not exempted under this section unless the source including the modifications meets the requirements of paragraph (a)(A) and (B) of this section.

[Note: Owners or operators of proposed sources which are exempted



by this provision ~~should refer to~~ may be subject to other applicable requirements including, but not limited to, OAR 340-28-800 through 340-28-820, Notice of Construction and Approval of Plans, and OAR 340-28-1700 through 340-28-1790, ACDF. ~~for possible applicable requirements;~~

~~(c) A proposed major source or modification is exempted from the requirements for PM<sub>10</sub> in OAR 340-28-1900 through 340-28-2000 if:~~

~~(i) The proposed source or modification received an ACDF prior to July 31, 1987, and meets all requirements of 40 CFR 52.21(i)(4)(ix), or~~

~~(ii) The owner or operator of the proposed source or modification submitted a complete application for an ACDF prior to July 31, 1987, and meets all requirements of 40 CFR 52.21(i)(4)(x).~~

(4) Air Quality Models. All estimates of ambient concentrations required under ~~this [set] rule[s]~~ shall be based on the applicable air quality models, data bases, and other requirements specified in ~~the~~ 40 CFR Part 51, Appendix W, "Guidelines on Air Quality Models (Revised)" (last amended by 58 FR 38816, July 20, 1993) [EPA 450/2-78-027R, U.S. Environmental Protection Agency, September 1986, including Supplement A, July, 1987]. Where an air quality impact model specified in ~~the "Guideline on Air Quality Models (Revised)" (including Supplement A)~~ 40 CFR Part 51, Appendix W is inappropriate, the model may be modified or another model substituted. Such a change shall be subject to notice and opportunity for public comment and shall receive approval of the Department and the EPA. Methods like those outlined in the "Interim Procedures for Evaluating Air Quality Models (Revised)" (U.S. Environmental Protection Agency, 1984) should be used to determine the comparability of models.

(5) Air Quality Monitoring:

(a) (A) The owner or operator of a proposed major source or major modification shall submit with the application, subject to approval of the Department, an analysis of ambient air quality in the area impacted by the proposed project. This analysis shall be conducted for each pollutant potentially emitted at a significant emission rate by the proposed source or modification. As necessary to establish ambient air quality, the analysis shall include continuous air quality monitoring data for any pollutant potentially emitted by the source or modification except for nonmethane hydrocarbons. Such data shall relate to, and shall have been gathered over the year preceding receipt of the complete application, unless the owner or operator demonstrates that such data gathered over a portion or portions of that year or another representative year would be adequate to determine that the source or modification would not cause or contribute to a violation of an ambient air quality standard or any applicable pollutant increment. Pursuant to the requirements of these rules, the owner or operator of the source shall submit for the approval of the Department, a preconstruction air quality monitoring plan.

(B) Air quality monitoring which is conducted pursuant to

this requirement shall be conducted in accordance with 40 CFR 58 Appendix B, "Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring" (July 1, 1993) and with other methods on file with the Department.

- (C) The Department may exempt a proposed major source or major modification from preconstruction monitoring for a specific pollutant if the owner or operator demonstrates that the air quality impact from the emissions increase would be less than the amounts listed below or that the concentrations of the pollutant in the area that the source or modification would impact are less than the ~~set~~ amount~~set~~ specified in Table 5:

Table 5  
OAR 340-28-1940

Significant Monitoring Concentrations

- (i) Carbon monoxide - 575 ug/m<sup>3</sup>, 8 hour average;
  - (ii) Nitrogen dioxide - 14 ug/m<sup>3</sup>, annual average;
  - (iii) Suspended Particulate Matter:
    - (I) TSP - 10 ug/m<sup>3</sup>, 24 hour average;
    - (II) PM<sub>10</sub> - 10 ug/m<sup>3</sup>, 24 hour average;
  - (iv) Sulfur dioxide - 13 ug/m<sup>3</sup>, 24 hour average;
  - (v) Ozone - Any net increase of 100 tons/year or more of VOCs from a source or modification subject to PSD requires an ambient impact analysis, including the gathering of ambient air quality data;
  - (vi) Lead - 0.1 ug/m<sup>3</sup>, 24 hour average;
  - (vii) Mercury - 0.25 ug/m<sup>3</sup>, 24 hour average;
  - (viii) Beryllium - 0.0005 ug/m<sup>3</sup>, 24 hour average;
  - (ix) Fluorides - 0.25 ug/m<sup>3</sup>, 24 hour average;
  - (x) Vinyl chloride - 15 ug/m<sup>3</sup>, 24 hour average;
  - (xi) Total reduced sulfur - 10 ug/m<sup>3</sup>, 1 hour average;
  - (xii) Hydrogen sulfide - 0.04 ug/m<sup>3</sup>, 1 hour average;
  - (xiii) Reduced sulfur compounds - 10 ug/m<sup>3</sup>, 1 hour average.
- (D) ~~When monitoring is required by paragraphs (5)(a)(A) through (C) of this rule,~~ PM<sub>10</sub> preconstruction monitoring ~~shall be required according to the following transition program:~~
- ~~(i) Complete PSD applications submitted before May 31, 1988, shall not be required to perform new PM<sub>10</sub> monitoring;~~
  - ~~(ii) Complete PSD applications submitted after May 31, 1988, and before November 31, 1988 shall use existing PM<sub>10</sub> or other representative air quality data or collect PM<sub>10</sub> monitoring data. The collected data may come from nonreference sampling methods. At least four months of data shall be collected which the Department judges to include the season(s) of highest PM<sub>10</sub> levels;~~
  - ~~(iii) Complete PSD applications submitted after November 31, 1988, shall use reference sampling methods. As required by this section, at least four months of data shall be collected ~~which the Department judges~~~~

to include the season(s) which the Department judges to have the highest PM<sub>10</sub> levels. PM<sub>10</sub> shall be measured in accordance with 40 CFR part 50, Appendix J (July 1, 1993).

- (b) The owner or operator of a proposed major source or major modification shall, after construction has been completed, conduct such ambient air quality monitoring as the Department may require as a permit condition to establish the effect which emissions of a pollutant, other than nonmethane hydrocarbons, may have, or is having, on air quality in any area which such emissions would affect.
- (6) Additional Impact Analysis:
  - (a) The owner or operator of a proposed major source or major modification shall provide an analysis of the impairment to soils and vegetation that would occur as a result of the source or modification, and general commercial, residential, industrial and other growth associated with the source or modification. The owner or operator may be exempted from providing an analysis of the impact on vegetation having no significant commercial or recreational value;
  - (b) The owner or operator shall provide an analysis of the air quality concentration projected for the area as a result of general commercial, residential, industrial and other growth associated with the major source or modification.
- (7) Sources Impacting Class I Areas:
  - (a) Where a proposed major source or major modification impacts or may impact a Class I area, the Department shall provide written notice to EPA and to the appropriate Federal Land Manager within 30 days of the receipt of such permit application, at least 30 days prior to Department Public Hearings and subsequently, of any preliminary and final actions taken with regard to such application;
  - (b) The Federal Land Manager shall be provided an opportunity in accordance with OAR 340-28-1910(3) to present a demonstration that the emissions from the proposed source or modification would have an adverse impact on the air quality related values, including visibility, of any federal mandatory Class I lands, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations which would exceed the maximum allowable increment for a Class I area. If the Department concurs with such demonstration, the permit shall not be issued.
- (8) Medford-Ashland Growth Margin. The owner or operator ~~for~~ of a proposed new major source or major modification in the Medford-Ashland Maintenance Area which will emit VOCs shall obtain a portion of the growth margin or offsets equal to the amount of any increase in its PSEL. The growth margin shall be allocated on a first-come-first-served basis depending on the date of submittal of a complete permit applications. No single source shall receive an allocation of more than 50% of any remaining growth margin. The allocation of emission increases from the growth margins shall be calculated based on the ozone season (May 1 to September 30 of each year). The

amount of each growth margin that is available is defined in the State Implementation Plan and is on file with the Department.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-20-047.]

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83; DEQ 18-1984, f. & ef. 10-16-84; DEQ 14-1985, f. & ef. 10-16-85; DEQ 8-1988, f. & cert. ef. 5-19-88 (and corrected 5-31-88); DEQ 27-1992, f. & cert. ef. 11-12-92; AQ 1-1993, f. & ef. 3-9-93; Renumbered from 340-20-245

## Exemptions

### 340-28-1950

- (1) ~~{Resource recovery facilities burning municipal refuse and sources subject to federally mandated fuel switches may be exempted by the Department from requirements OAR 340-28-1930 sections (3) and (4) provided that:~~
- ~~(a) No growth increment is available for allocation to such source or modification; and~~
  - ~~(b) The owner or operator of such source or modification demonstrates that every effort was made to obtain sufficient offsets and that every available offset was secured.~~

~~NOTE: Such an exemption may result in a need to revise the State Implementation Plan to require additional control of existing sources.~~

- ~~(2) Temporary emission sources, which would be in operation at a site for less than two years, such as pilot plants and portable facilities, and emissions resulting from the construction phase of a new source or modification shall comply with OAR 340-28-1930(1) and (2) or OAR 340-28-1940(1), whichever is applicable, but are exempt from the remaining requirements of OAR 340-28-1930 and OAR 340-28-1940 provided that the source or modification would impact no Class I area or no area where an applicable increment in known to be violated.~~

- ~~(3) Proposed increases in hours of operation or production rates which would cause emission increases above the levels allowed in a ~~an ACDP~~ permit and would not involve a physical change in the source may be exempted from the requirement of OAR 340-28-1940(1) provided that the increases cause no exceedances of an increment or standard and that the net impact on a nonattainment area is less than the significant air quality impact levels. This exemption shall not be allowed for new sources or modifications that received permits to construct after January 1, 1978.~~

- ~~(4) Also refer to OAR 340-28-1940(3) for exemptions pertaining to sources smaller than the Federal Size-Cutoff Criteria.~~

- (4) Emissions of hazardous air pollutants that are subject to a MACT standard under OAR 340-32-500 or OAR 340-32-4500 shall not be subject to OAR 340-28-1940.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 25-1981, f. & ef. 9-8-81; AQ 1-1993, f. & ef. 3-9-93; Renumbered from 340-20-250

### **Baseline for Determining Credit for Offsets**

#### **340-28-1960**

- (1) The baseline for determining credit for emission offsets shall be the PSEL established pursuant to OAR 340-28-1000 through 340-28-1040 or, in the absence of a PSEL, the actual emission rate for the source providing the offsets.
- (2) Sources in violation of air quality emission limitations may not supply offsets from those emissions which are or were in excess of permitted emission rates.
- (3) Emission reductions which are required pursuant to any state or federal regulation, or permit condition shall not be used for offsets.
- (4) Approval of offsets shall not exempt the new major sources or major modifications from BACT, LAER, NSPS and National Emission Standards for Hazardous Air Pollutants (NESHAPS) where required.
- (5) Offsets, including offsets from mobile and area source categories, shall be quantifiable and enforceable before the ACDP is issued and shall be demonstrated to remain in effect throughout the life of the proposed source or modification.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 27-1992, f. & cert. ef. 11-12-92; AQ 1-1993, f. & ef. 3-9-93; Renumbered from 340-20-255

### **Requirements for Net Air Quality Benefit**

**340-28-1970** Demonstrations of net air quality benefit for offsets shall include the following:

- (1) A demonstration shall be provided showing that the proposed offsets will improve air quality in the same geographical area affected by the new source or modification. This demonstration may require that air quality modeling be conducted according to the procedures specified in ~~the~~ 40 CFR Part 51, Appendix W, "Guideline on Air Quality Models (Revised)" (last amended by 58 FR 38816, July 20, 1993) ~~(including Supplement A)~~.
- (2) Offsets for VOCs or nitrogen oxides shall be within the same nonattainment area as the proposed source. Offsets for ~~TSP~~ particulate matter, PM<sub>10</sub>, sulfur dioxide, carbon monoxide, nitrogen dioxide, lead, and other pollutants shall be within the area of significant air quality impact.
- (3) New major sources or major modifications shall meet the following offset requirements:
  - (a) within a designated nonattainment area, the offsets shall provide reductions which are equivalent or greater than the proposed increases. The offsets shall be appropriate in terms of short term, seasonal, and yearly time periods to mitigate the impacts of the proposed emissions;

- (b) outside a designated nonattainment area, owners or operators of new major sources or major modifications which have a significant air quality impact on the nonattainment area, ~~the~~ shall provide emission offsets ~~{shall be}~~ which are sufficient to reduce impacts to levels below the significant air quality impact level within the nonattainment area;
  - (c) within an ozone nonattainment area, owners or operators of new major sources or major modifications which emit VOCs or nitrogen oxides shall provide emission reductions at a 1.1 to 1 ratio (i.e., demonstrate a 10% new reduction); and
  - (d) within 30 kilometers of an ozone nonattainment area, owners or operators of new major sources or major modifications which emit VOCs or nitrogen oxides shall provide reductions which are equivalent or greater than the proposed emission increases unless the applicant demonstrates that the proposed emissions will not impact the nonattainment area.
- (4) The emission reductions shall be of the same type of pollutant as the emissions from the new source or modification. Sources of PM<sub>10</sub> shall be offset with particulate in the same size range. ~~{ In areas where atmospheric reactions contribute to pollutant levels, offsets may be provided from precursor pollutants if a net air quality benefit can be shown. }~~
- (5) The emission reductions shall be contemporaneous, that is, the reductions shall take effect prior to the time of startup but not more than two years prior to the submittal of a complete permit application for the new source or modification. This time limitation may be extended through banking, as provided for in OAR 340-28-1980, Emission Reduction Credit Banking. In the case of replacement facilities, the Department may allow simultaneous operation of the old and new facilities during the startup period of the new facility provided that net emissions are not increased during that time period.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A  
 Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83; DEQ 8-1988, f. & cert. ef. 5-19-88 (and corrected 5-31-88); DEQ 27-1992, f. & cert. ef. 11-12-92; AQ 1-1993, f. & ef. 3-9-93; Renumbered from 340-20-260

### **Emission Reduction Credit Banking**

**340-28-1980** The owner or operator of a source of air pollution who wishes to reduce emissions by implementing more stringent controls than required by a permit or an applicable regulation may bank such emission reductions. Cities, counties or other local jurisdictions may participate in the emissions bank in the same manner as a private firm. Emission reduction credit banking shall be subject to the following conditions:

- (1) To be eligible for banking, emission reduction credits shall be in terms of actual emission decreases resulting from permanent continuous control of existing sources. The baseline for determining emission reduction credits shall be the actual emissions of the source or the PSEL established pursuant to OAR 340-28-1000 through 340-28-1040.
- (2) Emission reductions may be banked for a specified period not

to exceed ten years unless extended by the Commission, after which time such reductions will revert to the Department for use in attainment and maintenance of air quality standards.

- (3) Emission reductions which are required pursuant to an adopted rule shall not be banked.
- (4) Permanent source shutdowns or curtailments other than those used within ~~two~~<sup>one</sup> years for contemporaneous offsets as provided in OAR 340-28-1970(5) are not eligible for banking by the owner or operator but will be banked by the Department for use in attaining and maintaining standards. The two year limitation for contemporaneous offsets shall not be applicable to those shutdowns or curtailments which are ~~to be used as internal offsets within a plant as part of a specific plan~~ included in an approved specific plan for use as offsets within the same source containing the shutdown or curtailment. Such ~~a~~ plan ~~for use of internal offsets~~ shall be submitted to the Department and receive written approval within ~~two~~<sup>one</sup> years of the permanent shutdown or curtailment. A permanent source shutdown or curtailment shall be considered to have occurred when a permit is modified, revoked or expires without renewal pursuant to the criteria established in Division 14 of this Chapter~~[OAR 340-14-005 through 340-14-050]~~ or 340-28-2200 through 340-28-2280.
- (5) The amount of banked emission reduction credits shall be discounted without compensation to the holder for a particular source category when new regulations requiring emission reductions are adopted by the Commission. The amount of discounting of banked emission reduction credits shall be calculated on the same basis as the reductions required for existing sources which are subject to the new regulation. Banked emission reduction credits shall be subject to the same rules, procedures, and limitations as permitted emissions.
- (6) Emission reductions shall be in the amount of ten tons per year or more to be creditable for banking except as follows:
  - (a) In the Medford-Ashland AQMA emission reductions shall be at least in the amount specified in Table 2 of OAR 340-28-110;
  - (b) In Lane County, LRAPA may adopt lower levels.
- (7) Requests for emission reduction credit banking shall be submitted to the Department and shall contain the following documentation:
  - (a) A detailed description of the processes controlled;
  - (b) Emission calculations showing the types and amounts of actual emissions reduced;
  - (c) The date or dates of such reductions;
  - (d) Identification of the probable uses to which the banked reductions are to be applied;
  - (e) Procedure by which such emission reductions can be rendered permanent and enforceable.
- (8) Requests for emission reduction credit banking shall be submitted to the Department prior to or within the year following the actual emissions reduction. The Department shall approve or deny requests for emission reduction credit banking and, in the case of approvals, shall issue a letter to the owner or operator defining the terms of such banking.

The Department shall take steps to insure the permanence and enforceability of the banked emission reductions by including appropriate conditions in ~~{ACDPs}~~ permits and, if necessary, by appropriate revision of the State Implementation Plan.

- (9) The Department shall provide for the allocation of the banked emission reduction credits in accordance with the uses specified by the holder of the emission reduction credits. When emission reduction credits are transferred, the Department shall be notified in writing. Any use of emission reduction credits shall be compatible with local comprehensive plans, statewide planning goals, and state laws and rules.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83; DEQ 27-1992, f. & cert. ef. 11-12-92; AQ 1-1993, f. & ef. 3-9-93; Renumbered from 340-20-265

### **Fugitive and Secondary Emissions**

**340-28-1990** Fugitive emissions shall be included in the calculation of emission rates of all air contaminants. Fugitive emissions are subject to the same control requirements and analyses required for emissions from identifiable stacks or vents. Secondary emissions shall not be included in calculations of potential emissions which are made to determine if a proposed source or modification is major. Once a source or modification is identified as being major, secondary emissions shall be added to the primary emissions and become subject to these rules.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 25-1981, f. & ef. 9-8-81; AQ 1-1993, f. & ef. 3-9-93; Renumbered from 340-20-270

### **Visibility Impact**

**340-28-2000** New major sources or major modifications located in Attainment, Unclassified or Nonattainment Areas shall meet the following visibility impact requirements.

(1) **Visibility impact analysis:**

- (a) The owner or operator of a proposed major source or major modification shall demonstrate that the potential to emit any pollutant at a significant emission rate in conjunction with all other applicable emission increases or decreases, including secondary emissions, permitted since January 1, 1984, shall not cause or contribute to significant impairment of visibility within any Class I area;
- (b) Owners or operators of proposed sources which are exempted under OAR 340-28-1940(3) are not required to complete a visibility impact assessment to demonstrate that the sources do not cause or contribute to significant visibility impairment within a Class I area. The visibility impact assessment for sources exempted



- (c) under this section shall be completed by the Department; The owner or operator of a proposed major source or major modification shall submit all information necessary to perform any analysis or demonstration required by these rules pursuant to OAR 340-28-1910(1).
- (2) Air quality models. All estimates of visibility impacts required under this rule shall be based on the models on file with the Department. Equivalent models may be substituted if approved by the Department. The Department will perform visibility modeling of all sources with potential emissions less than 100 tons/year of any individual pollutant and locating closer than 30 Km to a Class I area, if requested.
- (3) Determination of significant impairment: The results of the modeling shall be sent to the affected land managers and the Department. The land managers may, within 30 days following receipt of the source's visibility impact analysis, determine whether or not impairment of visibility in a Class I area would result. The Department will consider the comments of the Federal Land Manager in its consideration of whether significant impairment will result. Should the Department determine that impairment would result, a permit for the proposed source will not be issued.
- (4) Visibility monitoring:
- (a) The owner or operator of a proposed major source or major modification which emit more than 250 tons per year of Particulate Matter, SO<sub>2</sub> or NO<sub>2</sub> shall submit with the application, subject to approval of the Department, an analysis of visibility in or ~~immediately~~ adjacent to the Class I area impacted by the proposed project. As necessary to establish visibility conditions within the Class I area, the analysis shall include a collection of continuous visibility monitoring data for all pollutants emitted by the source that could potentially impact Class I area visibility. Such data shall relate to and shall have been gathered over the year preceding receipt of the complete application, unless the owner or operator demonstrates that data gathered over a shorter portion of the year for another representative year would be adequate to determine that the source or major modification would not cause or contribute to significant impairment. Where applicable, the owner or operator may demonstrate that existing visibility monitoring data may be suitable. Pursuant to the requirements of these rules, the owner or operator of the source shall submit, for the approval of the Department, a preconstruction visibility monitoring plan;
- (b) The owner or operator of a proposed major source or major modification shall, after construction has been completed, conduct such visibility monitoring as the Department may require as a permit condition to establish the effect which emissions of pollutant may have, or is having, on visibility conditions with the Class I area being impacted.
- (5) Additional impact analysis: The owner or operator of a proposed major source or major modification subject to OAR 340-28-1940(6)(a) shall provide an analysis of the impact to

visibility that would occur as a result of the source or modification and general commercial, residential, industrial, and other growth associated with the source or major modification.

- (6) Notification of permit application:
- (a) Where a proposed major source modification impacts or may impact visibility within a Class I area, the Department shall provide written notice to the EPA and to the appropriate Federal Land Manager within 30 days of the receipt of such permit application. Such notification shall include a copy of all information relevant to the permit application, including analysis of anticipated impacts on Class I area visibility. Notification will also be sent at least 30 days prior to Department Public Hearings and subsequently of any preliminary and final actions taken with regard to such application;
  - (b) Where the Department receives advance notification of a permit application of a source that may affect Class I area visibility, the Department will notify all affected Federal Land Managers within 30 days of such advance notice;
  - (c) The Department will, during its review of source impacts on Class I area visibility pursuant to this rule, consider any analysis performed by the Federal Land Manager that is provided within 30 days of notification required by subsection (a) of this section. If the Department disagrees with the Federal Land Manager's demonstration, the Department will include a discussion of the disagreement in the Notice of Public Hearing;
  - (d) The Federal Land Manager shall be provided an opportunity in accordance with OAR 340-28-1910(3) to present a demonstration that the emissions from the proposed source or modification would have an adverse impact on visibility of any Federal mandatory Class I lands, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations which would exceed the maximum allowable increment for a Class I area. If the Department concurs with such demonstration, the permit shall not be issued.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 18-1984, f. & ef. 10-16-84; DEQ 14-1985, f. & ef. 10-16-85; AQ 1-1993, f. & ef. 3-9-93; Renumbered from 340-20-276

### Permit Applications

#### 340-28-2120

- (1) Duty to apply. For each federal operating permit program source, the owner or operator shall submit a timely and complete permit application in accordance with this rule.
  - (a) Timely application.
    - (A) A timely application for a source that is in operation as of the effective date of the federal operating permit program is one that is submitted 12 months after the effective date of the federal operating permit program in

Oregon or on or before such earlier date as the Department may establish. If an earlier date is established, the Department will provide at least six (6) months for the owner or operator to prepare an application. A timely application for a source that is not in operation or that is not subject to the federal operating permit program as of the effective date of the federal operating permit program is one that is submitted within 12 months after the source becomes subject to the federal operating permit program.

- (B) Any federal operating permit program source required to have obtained a permit prior to construction under the ACDP program, OAR 340-28-1700 through 340-28-1790; New Source Review program, OAR 340-28-1900 through 340-28-2000; or the construction/operation modification rule, OAR 340-28-2270; shall file a complete application to obtain the federal operating permit or permit revision within 12 months after commencing operation. Commencing operation shall be considered initial startup. Where an existing federal operating permit would prohibit such construction or change in operation, the owner or operator shall obtain a permit revision before commencing operation.
  - (C) Any federal operating permit program source owner or operator shall follow the appropriate procedures under OAR 340-28-2100 through 340-28-2320 prior to commencement of operation of a source permitted under the construction/operation modification rule, OAR 340-28-2270.
  - (D) For purposes of permit renewal, a timely application is one that is submitted at least 12 months prior to the date of permit expiration, or such other longer time as may be approved by the Department that ensures that the term of the permit will not expire before the permit is renewed. If more than 12 months is required to process a permit renewal application, the Department shall provide no less than six (6) months for the owner or operator to prepare an application. In no event shall this time be greater than 18 months.
  - (E) Applications for initial phase II acid rain permits shall be submitted to the Department by January 1, 1996 for sulfur dioxide, and by January 1, 1998 for nitrogen oxides.
  - (F) Applications for Compliance Extensions for Early Reductions of HAP shall be submitted before proposal of an applicable emissions standard issued under section 112(d) of the FCAA and shall be in accordance with provisions prescribed in OAR 340-32-300 through 340-32-380.
- (b) Complete application.
- (A) To be deemed complete, an application shall provide all information required pursuant to ~~OAR 340-28-2120(3)~~ section (3) of this rule. The application shall include six (6) copies of all required forms and exhibits in hard copy and one (1) copy in electronic format as specified by the Department. Applications for permit revision need to supply information required under OAR

- 340-28-2120(3) only if it is related to the proposed change. Information required under ~~{OAR 340-28-2120(3)}~~ section (3) of this rule shall be sufficient to evaluate the subject source and its application and to determine all applicable requirements. A responsible official shall certify the submitted information is in accordance with ~~{OAR 340-28-2120(5)}~~ section (5) of this rule.
- (B) Applications which are obviously incomplete, unsigned, or which do not contain the required exhibits, ~~{clearly identified}~~, will not be accepted by the Department for filing and shall be returned to the applicant for completion.
  - (C) If the Department determines that additional information is necessary before making a completeness determination, it may request such information in writing and set a reasonable deadline for a response. The application will not be considered complete for processing until the adequate information has been received. When the information in the application is deemed adequate, the applicant will be notified that the application is complete for processing.
  - (D) Unless the Department determines that an application is not complete within 60 days of receipt of the application, such application shall be deemed to be complete, except as otherwise provided in OAR 340-28-2200(1)(e). If, while processing an application that has been determined or deemed to be complete, the Department determines that additional information is necessary to evaluate or take final action on that application, it may request such information in writing and set a reasonable deadline for a response. If the additional information is not provided by the deadline specified, the application shall be determined to be incomplete, and the application shield shall cease to apply.
  - (E) Applications determined or deemed to be complete shall be submitted by the Department to the EPA as required by OAR 340-28-2310(1)(a).
  - (F) The source's ability to operate without a permit, as set forth in 340-28-2200(2), shall be in effect from the date the application is determined or deemed to be complete until the final permit is issued, provided that the applicant submits any requested additional information by the deadline specified by the Department.
- (2) Duty to supplement or correct application. Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a draft permit.
- (3) Standard application form and required information. Applications shall be submitted on forms and in electronic formats specified by the Department. Information as described below for each emissions unit at a federal operating permit program source shall be included in the application. An

application may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to evaluate the fee amount required. The application shall include the elements specified below:

- (a) Identifying information, including company name and address, ~~+(or) plant name and address if different from the company's name+~~, owner's name and agent, and telephone number and names of plant site manager/contact.
- (b) A description of the source's processes and products ~~+(by Standard Industrial Classification Code+)~~ including any associated with each alternative operating scenario identified by the owner or operator and related flow chart(s).
- (c) The following emissions-related information for all requested alternative operating scenarios identified by the owner or operator:
  - (A) All emissions of pollutants for which the source is a major, all emissions of regulated air pollutants and all emissions of pollutants listed in OAR 340-32-130. A permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit, except where such units are exempted under ~~OAR 340-28-2120(3)~~ section (3) of this rule. The Department shall require additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the source, and other information necessary to collect any permit fees owed.
  - (B) Identification and description of all points of emissions described in ~~OAR 340-28-2120~~ paragraph (3) (c) (A) of this rule in sufficient detail to establish the basis for fees and applicability of requirements of the FCAA and state rules.
  - (C) Emissions rates in tons per year and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method and to establish PSELS for all regulated air pollutants except as restricted by OAR 340-28-1050 and OAR 340-28-1060.
    - (i) An applicant may request that a period longer than hourly be used for the short term PSEL provided that the requested period is consistent with the means for demonstrating compliance with any other applicable requirement and the PSEL requirement, and:
      - (I) The requested period is no longer than the shortest period of the Ambient Air Quality Standards for the pollutant, which shall be no longer than daily for VOC and NO<sub>x</sub>, or
      - (II) The applicant demonstrates that the requested period, if longer than the shortest period of the Ambient Air Quality Standards for the pollutant, is the shortest period compatible with source operations.
    - (ii) The requirements of the applicable rules shall be satisfied for any requested increase in PSELS, establishment of baseline emissions rates, requested emission reduction credit banking, or other PSEL changes.
- (D) Additional information as determined to be necessary to

establish any alternative emission limit in accordance with OAR 340-28-1030, if the permit applicant requests one.

- (E) The application shall include a list of all categorically insignificant activities and an estimate of all emissions of regulated air pollutants from those activities which are designated insignificant because of non-exempt insignificant mixture usage or aggregate insignificant emissions.
- (F) The following information to the extent it is needed to determine or regulate emissions: fuels, fuel sulfur content, fuel use, raw materials, production rates, and operating schedules.
- (G) Any information on pollution prevention measures and cross-media impacts the owner or operator wants the Department to consider in determining applicable control requirements and evaluating compliance methods; and
- (H) Where the operation or maintenance of air pollution control equipment and emission reduction processes can be adjusted or varied from the highest reasonable efficiency and effectiveness, information necessary for the Department to establish operational and maintenance requirements under OAR 340-28-620 (1) and (2).
- ~~(G+I)~~ Identification and description of air pollution control equipment, including estimated efficiency of the control equipment, and compliance monitoring devices or activities.
- ~~(H+J)~~ Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated air pollutants at the federal operating permit program source.
- ~~(I+K)~~ Other information required by any applicable requirement, ~~(including information related to stack height limitations developed pursuant to OAR 340-28-1110+)~~.
- ~~(J+L)~~ Calculations on which the information in items (A) through ~~(I+K)~~ above is based.
- (d) A plot plan showing the location of all emissions units identified by Universal Transverse Mercator or "UTM" as provided on United States Geological Survey maps and the nearest residential or commercial property.
- (e) The following air pollution control requirements:
  - (A) Citation and description of all applicable requirements, and
  - (B) Description of or reference to any applicable test method for determining compliance with each applicable requirement.
- (f) The following monitoring, recordkeeping, and reporting requirements:
  - (A) A proposed Enhanced Monitoring Protocol as required by the FCAA;
  - (B) All emissions monitoring and analysis procedures or test methods required under the applicable requirements;
  - (C) Proposed periodic monitoring to determine compliance where an applicable requirement does not require periodic testing or monitoring;
  - (D) The proposed use, maintenance, and installation of

- (E) monitoring equipment or methods, as necessary;
- (F) Documentation of the applicability of the proposed Enhanced Monitoring Protocol, such as test data and engineering calculations;
- (G) Proposed consolidation of reporting requirements, where possible;
- (H) A proposed schedule of submittal of all reports; and
- (H) Other similar information as determined by the Department to be necessary to protect human health or the environment or to determine compliance with applicable requirements.
- (g) Other specific information that may be necessary to implement and enforce other applicable requirements of the FCAA or state rules or of OAR 340-28-2100 through 340-28-2320 or to determine the applicability of such requirements.
- (h) An explanation of any proposed exemptions from otherwise applicable requirements.
- (i) A copy of any existing permit attached as part of the permit application. Owners or operators may request that the Department make a determination that an existing permit term or condition is no longer applicable by supplying adequate information to support such a request. The existing permit term or condition shall remain in effect unless or until the Department determines that the term or condition is no longer applicable by permit modification.
- (j) Additional information as determined to be necessary by the Department to define permit terms and conditions implementing off-permit changes for permit renewals.
- (k) Additional information as determined to be necessary by the Department to define permit terms and conditions implementing section 502(b)(10) changes for permit renewals.
- (l) Additional information as determined to be necessary by the Department to define permit terms and conditions implementing emissions trading under the PSEL including but not limited to proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable if the applicant requests such trading.
- (m) Additional information as determined to be necessary by the Department to define permit terms and conditions implementing emissions trading, to the extent that the applicable requirements provide for trading without a case-by-case approval of each emissions trade if the applicant requests such trading.
- (n) A compliance plan that contains all the following:
  - (A) A description of the compliance status of the source with respect to all applicable requirements.
  - (B) A description as follows:
    - (i) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.
    - (ii) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis.
    - (iii) For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve

- compliance with such requirements.
- (C) A compliance schedule as follows:
    - (i) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.
    - (ii) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.
    - (iii) A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance and interim measures to be taken by the source to minimize the amount of excess emissions during the scheduled period. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based.
  - (D) A schedule for submission of certified progress reports no less frequently than every 6 months for sources required to have a schedule of compliance to remedy a violation.
  - (E) The compliance plan content requirements specified in this section shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under Title IV of the FCAA with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations.
  - (o) Requirements for compliance certification, including the following:
    - (A) A certification of compliance with all applicable requirements by a responsible official consistent with ~~[OAR 340-28-2120]~~ section (5) of this rule and section 114(a)(3) of the FCAA;
    - (B) A statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods;
    - (C) A schedule for submission of compliance certifications during the permit term, to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the Department; and
    - (D) A statement indicating the source's compliance status



- with any applicable enhanced monitoring and compliance certification requirements of the FCAA or state rules.
- (p) A Land Use Compatibility Statement (LUCS), if applicable, to assure that the type of land use and activities in conjunction with that use have been reviewed and approved by local government before a permit is processed and issued.
  - (q) The use of nationally-standardized forms for acid rain portions of permit applications and compliance plans, as required by regulations promulgated under Title IV of the FCAA.
  - (r) For purposes of permit renewal, the owner or operator shall submit all information as required in ~~10AR 340-28-2120~~ section (3) of this rule. The owner or operator may identify information in its previous permit application for emissions units that should remain unchanged and for which no changes in applicable requirements have occurred and provide copies of the previous permit application for only those emissions units.
- (4) Quantifying Emissions.
- (a) When quantifying emissions for purposes of a permit application, modification, or renewal an owner or operator shall use the most representative data available or required in a permit condition. The Department shall consider the following data collection methods as acceptable for determining air emissions:
    - ~~1.1~~ (A) Continuous emissions monitoring system data obtained in accordance with the Department's Continuous Monitoring Manual (January, 1992);
    - ~~2.1~~ (B) Source testing data obtained in accordance with the Department's Source Sampling Manual (January, 1992) except where material balance calculations are more accurate and more indicative of an emission unit's continuous operation than limited source test results (e.g. a volatile organic compound coating operation) ~~1.1~~;
    - ~~3.1~~ (C) Material balance calculations ~~1.1~~;
    - ~~4.1~~ (D) Emission factors subject to Department review and approval ~~1.1~~; and
    - ~~5.1~~ (E) Other methods and calculations subject to Department review and approval.
  - (b) When continuous monitoring or source test data has previously been submitted to and approved by the Department for a particular emissions unit, that information shall be used for quantifying emissions. Material balance calculations may be used as the basis for quantifying emissions when continuous monitoring or source test data exists if it can be demonstrated that the results of material balance calculations are more indicative of actual emissions under normal continuous operating conditions. Emission factors or other methods may be used for calculating emissions when continuous monitoring data, source test data, or material balance data exists if the owner or operator can demonstrate that the existing data is not representative of actual operating conditions. When an owner or operator uses emission factors or other methods as the basis of calculating emissions, a brief justification for the validity of the emission factor or method shall be

submitted with the calculations. The Department shall review the validity of the emission factor or method during the permit application review period. When an owner or operator collects emissions data that is more representative of actual operating conditions, either as required under a specific permit condition or for any other requirement imposed by the Department, the owner or operator shall use that data for calculating emissions when applying for a permit modification or renewal. Nothing in this provision shall require owners or operators to conduct monitoring or testing solely for the purpose of quantifying emissions for permit applications, modifications, or renewals.

- (5) Any application form, report, or compliance certification submitted pursuant to OAR 340-28-2100 through 340-28-2320 shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under OAR 340-28-2100 through 340-28-2320 shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

### **Construction/Operation Modifications 340-28-2270**

#### **(1) Requirement.**

- (a) No owner or operator shall construct, fabricate, erect, install, establish, develop or operate a new source of regulated air pollutants of any class listed in OAR 340-28-2270(2) without first notifying the Department in writing and obtaining approval.
- (b) No owner or operator shall modify or replace any source of regulated air pollutants of any class listed in OAR 340-28-2270(2) covered by a permit under OAR 340-28-2100 through 340-28-2320 without first notifying the Department in writing and obtaining approval if:
  - (A) Any emissions unit is changed or added to that would increase that emissions unit's potential to emit;
  - (B) Any alternative operating scenario is changed or added to that would affect the method of the compliance certification;
  - (C) The performance of any pollution control equipment used to comply with a Department requirement is degraded causing an increase of emissions (excluding routine maintenance);
  - (D) The performance of any monitoring equipment required by the Department is changed (excluding routine maintenance); or
  - (E) The source becomes subject to a new applicable requirement.
- (2) Scope. This regulation shall apply to the following classes of sources of regulated air pollutants:
  - (a) Any emissions unit having emissions to the atmosphere;
  - (b) Any air pollution control equipment used to comply with a Department requirement;
  - (c) Any monitoring equipment required by the Department.
- (3) Procedure.
  - (a) Notice. Any owner or operator required to obtain

approval for a new, modified, or replaced source of regulated air pollutants of any class listed in OAR 340-28-2270(2) shall notify the Department in writing on a form supplied by the Department.

(b) Submission of Plans and Specifications. The Department shall require the submission of plans and specifications for any source of regulated air pollutants of any class listed in OAR 340-28-2270(2) being constructed or modified and its relationship to the production process. The following information shall be required for a complete application:

- (A) Name, address, and nature of business;
- (B) Name of local person responsible for compliance with these rules;
- (C) Name of person authorized to receive requests for data and information;
- (D) A description of the constructed or modified source;
- (E) A description of the production processes and a related flow chart for the constructed or modified source;
- (F) A plot plan showing the location and height of the constructed or modified air contaminant source. The plot plan shall also indicate the nearest residential or commercial property;
- (G) Type and quantity of fuels used;
- (H) The change in the amount, nature and duration of regulated air pollutant emissions;
- (I) Any information on pollution prevention measures and cross-media impacts the owner or operator wants the Department to consider in determining applicable control requirements and evaluating compliance methods;
- (J) Where the operation or maintenance of air pollution control equipment and emission reduction processes can be adjusted or varied from the highest reasonable efficiency and effectiveness, information necessary for the Department to establish operational and maintenance requirements under OAR 340-28-620 (1) and (2);
- (~~I~~K) Estimated efficiency of air pollution control equipment under present or anticipated operating conditions;
- (~~J~~L) Amount and method of refuse disposal;
- (~~K~~M) Land Use Compatibility Statement signed by a local (city or county) planner either approving or disapproving construction or modification to the source if required by the local planning agency;
- (~~L~~N) Corrections and revisions to the plans and specifications to insure compliance with applicable rules, orders and statutes; and
- (~~M~~O) Sufficient information for the Department to determine applicable emission limitations and requirements for hazardous air pollutant sources.

(c) Notice of Approval:

- (A) For construction or modification of any source of regulated air pollutants of any class listed in OAR 340-28-2270(2) that does not increase emissions above the PSEL:
  - (i) The Department shall, upon determining that the proposed construction or modification is, in the

opinion of the Department, in accordance with the provisions of applicable rules, order, and statutes, notify the owner or operator that construction may proceed within 60 days of receipt of the required information;

- (ii) A Notice of Approval to proceed with construction or modification shall allow the owner or operator to construct or modify the source and operate it in accordance with provisions under OAR 340-28-2220, 340-28-2230 or 340-28-2240, whichever is applicable.
  - (iii) A Notice of Approval to proceed with construction or modification shall not relieve the owner or operator of the obligation of complying with applicable emission standards and orders.
- (B) For construction or modification of any source of regulated air pollutants of any class listed in OAR 340-28-2270(2) that increases emissions above the PSEL:
- (i) The Department shall upon determining that the proposed construction or modification is in the opinion of the Department in accordance with the provisions of applicable rules, order, and statutes, issue public notice as to the intent to issue an approval for construction or modification within 180 days of receipt of the required information;
  - (ii) The public notice shall allow at least thirty (30) days for written comment from the public, and from interested State and Federal agencies, prior to issuance of the approval. Public notice shall include the name and quantities of new or increased emissions for which permit limits are proposed, or new or increased emissions which exceed significant emission rates established by the Department.
  - (iii) In addition to the information required under OAR 340-11-007, public notices for approval of construction or modification shall contain a determination of:
    - (I) Whether the proposed permitted emission would have a significant impact on a Class I airshed;
    - (II) Whether each proposed permitted emission is a criteria pollutant and whether the area in which the source is located is designated as attainment or nonattainment for that pollutant; and
    - (III) For each major source within an attainment area for which dispersion modeling has been performed an indication of what impact each proposed permitted emission would have on the Prevention of Significant Deterioration Program within that attainment area.
  - (iv) The owner or operator may request that the external review procedures required under OAR 340-28-2290 and OAR 340-28-2310 be used instead of the notice procedures under paragraph (ii) and (iii) this rule to allow for subsequent incorporation of the Notice of Approval as an administrative amendment. The public notice shall state that the external review procedures are being used, if the applicant requests them.
  - (v) If, within 30 days after commencement of the public

- notice period, the Department receives written requests from ten (10) persons, or from an organization or organizations representing at least ten persons, for a public hearing to allow interested persons to appear and submit oral or written comments on the proposed provisions, the Department shall provide such a hearing before taking final action on the application, at a reasonable place and time and on reasonable notice. Requests for public hearing shall clearly identify the air quality concerns in the draft permit.
- (vi) The Department shall give notice of any public hearing at least 30 days in advance of the hearing. Notice of such a hearing may be given, in the Department's discretion, either in the public notice under 340-28-2290(1) or in such other manner as is reasonably calculated to inform interested persons.
  - (vii) The Department shall, upon determining that the proposed construction or modification is, in the opinion of the Department, in accordance with the provisions of applicable rules, order, and statutes, notify the owner or operator that construction may proceed after the public notice period.
  - (viii) A Notice of Approval to proceed with construction or modification shall allow the owner or operator to construct or modify the source and operate it in accordance with provisions under OAR 340-28-2220, 340-28-2230, or 340-28-2240, whichever is applicable.
  - (ix) A Notice of Approval to proceed with construction or modification shall not relieve the owner or operator of the obligation of complying with applicable emission standards and orders.
- (d) Order Prohibiting Construction. If within the 60 day or 180 day review period, whichever is applicable, the Director determines that the proposed construction or modification is not in accordance with applicable statutes, rules, regulations and orders, the Director shall issue an order prohibiting the construction or modification of the air contamination source. Said order is to be forwarded to the owner by certified mail.
  - (e) Hearing. Pursuant to law, an owner or operator against whom an order prohibiting construction is directed may within 20 days from the date of mailing of the order, demand a hearing. The demand shall be in writing, state the grounds for hearing, and be mailed to the Director of the Department. The hearing shall be conducted pursuant to the applicable provisions of ORS Chapter 183.
  - (f) Notice of Completion. Within thirty (30) days after any owner or operator has constructed or modified an air contamination source as defined under OAR 340-28-2270(2), that owner or operator shall so report in writing on a form furnished by the Department, stating the date of completion of construction or modification and the date the source was or will be put in operation.
  - (g) Incorporation into a Federal Operating Permit.
    - (A) Where a federal operating permit would allow

incorporation of such construction or modification as an off-permit change [OAR 340-28-2220(2)] or a section 502(b)(10) change [OAR 340-28-2220(3)]:

- (i) The owner or operator of the air contamination source shall submit to the Department the applicable notice, and
  - (ii) The Department shall incorporate the construction or modification at permit renewal, if applicable.
- (B) Where a federal operating permit would allow incorporation of such construction or modification as an administrative amendment [OAR 340-28-2230], the owner or operator of the source may:
- (i) submit the permit application information required under OAR 340-28-2120(3) with the information required under OAR 340-28-2270(3)(b) upon becoming aware of the need for an administrative amendment; and
  - (ii) request that the external review procedures required under OAR 340-28-2290 and OAR 340-28-2310 be used instead of the notice procedures under OAR 340-28-2270(3)(c)(B)(ii) and (iii) to allow for subsequent incorporation of the construction permit as an administrative amendment.
- (C) Where a federal operating permit would require incorporation of such construction or modification as a minor permit modification [OAR 340-28-2250] or a significant permit modification [OAR 340-28-2260], the owner or operator of the source shall submit the permit application information required under OAR 340-28-2120(3) within one year of initial startup of the construction or modification.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A  
Hist.: AQ 9-1993, f. & ef. 9-24-93

## ATTACHMENT A4

### Amendments to OAR Chapter 340, Division 31<sup>1</sup>

#### AIR POLLUTION CONTROL STANDARDS FOR AIR PURITY AND QUALITY

##### Ambient Air Quality Standards

[ED. NOTE: Administrative order DEQ 37 repealed previous rules 340-31-005 through 340-31-020 (DEQ 5 and 6).]

#### Definitions

340-31-005 As used in ~~{OAR 340-31-005 through 340-31-055}~~ this Division:

- (1) "Ambient air" means that portion of the atmosphere which surrounds the earth and is used for respiration by plants or animals including people, but excluding the general volume of gases contained within any building or structure.
- (2) "Ambient air monitoring site criteria" means the general probe siting specifications as set forth in Appendix E of **40 CFR 58**.
- (3) "Approved method" means an analytical method for measuring air contaminant concentrations which are described or referenced in **40 CFR 50** and Appendices. These methods are approved by the Department of Environmental Quality.
- ~~{340-28-110(11)}~~ **(4)** "Baseline Concentration" means:
  - (a) The ambient concentration level for sulfur dioxide and total suspended particulate which existed in an area during the calendar year 1978. If no ambient air quality data is available in an area, the baseline concentration may be estimated using modeling based on actual emissions for 1978. ~~{The following emission increases or decreases will be included in the baseline concentration:}~~
    - ~~{(A)}~~ Actual emission increases or decreases occurring before January 1, 1978 shall be included in the baseline calculation, except that ~~{-and}~~
    - ~~{(B)}~~ Actual emission increases from any major source or major modification on which construction commenced ~~{before}~~ after January 6, 1975 shall not be included in the baseline calculation.
  - (b) The ambient concentration level for nitrogen oxides which existed in an area during the calendar year 1988. **[Renumbered from OAR 340-28-110(11)]**
- ~~{(4)}~~ **(5)** "CFR" means Code of Federal Regulations which is published annually and updated daily by issues of the Federal Register. The CFR contains general and permanent rules promulgated by the executive departments and agencies of the federal government. References to the CFR are preceded by a "Title number" and followed by a "Part and Section number." For example: "**40 CFR 50.7**." The CFR referenced in OAR 340-31-005 through 340-31-055 are

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1. Only amended and new rules are printed.

- available for inspection at the Department of Environmental Quality.
- ~~(340-31-105(1))6~~ - "Federal Land Manager" means, with respect to any lands in the United States, the Secretary of the federal department with authority over such lands.
- ~~(340-31-105(3))7~~ "Indian Governing Body" means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.
- ~~(340-31-105(2))8~~ "Indian reservation" means any Federally recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.
- ~~(5)9~~ "Oregon standard method" means any method of sampling and analyzing for an air contaminant approved by the Department of Environmental Quality. Oregon standard methods are kept on file by the Department of Environmental Quality.
- (10) "Particulate Matter" means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by an applicable reference method in accordance with the Department's Source Sampling Manual, (January, 1992).**
- (11) "PM<sub>10</sub>"**
- (a) when used in the context of emissions, means finely divided solid or liquid material, including condensible particulate, other than uncombined water, with an aerodynamic diameter less than or equal to a nominal 10 micrometers, emitted to the ambient air as measured by an applicable reference method in accordance with the Department's Source Sampling Manual (January, 1992);**
- (b) when used in the context of ambient concentration, means airborne finely divided solid or liquid material with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured in accordance with 40 CFR Part 50, Appendix J (July, 1993).**
- ~~(6)12~~ "Ppm" means parts per million by volume. It is a dimensionless unit of measurement for gases which expresses the ratio of the volume of one component gas to the volume of the entire sample mixture of gases.
- (13) "Total Suspended Particulate" or "TSP" means particulate matter as measured by the method described in 40 CFR Part 50, Appendix B (July 1, 1993).**

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 18-1979, f. & ef. 6-22-79; DEQ 25-1981, f. & ef. 9-8-81; DEQ 8-1988, f. & cert. ef. 5-19-88 (corrected 9-30-88); AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-31-105 and OAR 340-28-110



## Definitions

~~340-31-105 [As used in OAR 340-31-100 through 340-31-130:~~

- ~~(1) "Federal Land Manager" means, with respect to any lands in the United States, the Secretary of the federal department with authority over such lands.—~~
- ~~(2) "Indian reservation" means any Federally recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.—~~
- ~~(3) "Indian Governing Body" means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self government.—~~

~~Stat. Auth.: ORS Ch. 468 & 468A—~~

~~Hist.: DEQ 18-1979, f. & of. 6-22-79; DEQ 25-1981, f. & of. 9-8-81; AQ 1-1993, f. & of. 3-9-93]~~**[Renumbered to OAR 340-31-005]**

**AMENDMENTS TO OAR CHAPTER 340, DIVISION 32<sup>1</sup>**

**HAZARDOUS AIR POLLUTANTS**

**General Provisions for Stationary Sources**

**Applicability**

**340-32-~~[210]~~105**

- (1) The provisions of this Division shall apply to any new, modified, or existing source that emits or has the potential to emit any HAP listed in Table 1 of OAR 340-32-130.
- (2) The owner or operator of the following types of sources shall comply with the applicable standards set forth in OAR 340-32-400 through ~~OAR~~ 340-32-5000 and OAR 340-32-5500 through 340-32-5650:
  - (a) any existing major source of HAP;
  - (b) any new major source of HAP that proposes to construct;
  - (c) any existing major source of HAP that proposes a modification;
  - (d) any existing source currently having an Air Contaminant Discharge Permit that becomes a major source of HAP;
  - (e) any existing unpermitted source that becomes a major source of HAP; or
  - (f) any area source of HAP for which a standard has been adopted.

**Delegation of authority**

340-32-110 ~~{Upon adoption, the Commission shall authorize and confer jurisdiction to the Lane Regional Air Pollution Authority to carry out, within its boundaries, the provisions of this Division.}~~

- (1) The Lane Regional Air Pollution Authority (LRAPA) is authorized to implement and enforce, within its boundaries, this Division.
- (2) The Commission may authorize LRAPA to implement and enforce its own provisions upon a finding that such provisions are at least as stringent as a corresponding provision in this Division. LRAPA may implement and enforce provisions authorized by the Commission in place of any or all of this Division upon receipt of delegation from EPA or approval of such provisions under Section 112(1) of the federal Clean Air Act. Authorization provided under this section may be withdrawn for cause by the Commission.

Stat. Auth.: ORS Ch. 468 & 468A

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<sup>1</sup> Only amended and new rules are printed.

## Definitions

340-32-120 As used in this Division:

- (1) "Accidental Release" means an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source.
- (2) "Act" and "FCAA" mean the Federal Clean Air Act, Public Law 88-206 as last amended by Public Law 101-549, 42 U.S.C. 7401, et seq.
- (3) "Actual Emissions" means the mass ~~rate of~~ emissions of a pollutant from an emissions source during a specified time period.
  - (a) Actual emissions shall equal the average rate at which the source actually emitted the pollutant and which is representative of normal source operation. Actual emissions shall be directly measured with a continuous monitoring system or calculated using a material balance or verified emission factor in combination with the source's actual operating hours, production rates and types of materials processed, stored, or combusted during the ~~selected~~ specified time period.
  - (b) For any ~~newly permitted emissions~~ source which had not yet begun normal operation in the specified time period, actual emissions shall equal the potential to emit of the source ~~;~~.
  - (c) For purposes of OAR 340-32-300 through OAR 340-32-380 actual emissions shall equal the actual rate of emissions of a pollutant, but does not include excess emissions from a malfunction, or startups and shutdowns associated with a malfunction.
- (4) "Area Source" means any stationary source which has the potential to emit hazardous air pollutants but is not a major source of hazardous air pollutants.
- (5) "Artificially or substantially greater emissions" means abnormally high emissions such as could be caused by equipment malfunctions, accidents, unusually high production or operating rates compared to historical rates, or other unusual circumstances.
- (6) "Base year emissions" for purposes of Early Reductions only (OAR 340-32-300), means actual emissions in the calendar year 1987 or later.
- (7) "Commission" means the Oregon Environmental Quality ~~e~~Commission.
- (8) "Department" means the Department of Environmental Quality.
- (9) "Director" means the Director of the Department or Regional authority, and authorized deputies or officers.
- (10) "Early Reductions Unit" means a single emission point or group of emissions points defined as a unit for purposes of an alternative emissions limit issued under OAR 340-32-300 through 380.
- (11) "Effective Date of the Program" means the date that the EPA approves the federal operating permit program submitted by

the Department on a full or interim basis. In case of a partial approval, the "effective date of the program" for each portion of the program is the date of EPA approval of that portion.

- (12) "Emission" means a release into the atmosphere of any regulated pollutant or air contaminant.
- (13) "Emissions Limitation" and "Emissions Standard" mean a requirement adopted by the Department or regional authority, or proposed or promulgated by the Administrator of the EPA, which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.
- (14) "Emissions unit" means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant.
  - (a) A part of a stationary source is any machine, equipment, raw material, product, or by-product that produces or emits air pollutants. An activity is any process, operation, action, or reaction (e.g., chemical) at a stationary source that emits air pollutants. Except as described in subsection (d) of this definition section, parts and activities may be grouped for purposes of defining an emissions unit provided the following conditions are met:
    - (A) the group used to define the emissions unit may not include discrete parts or activities to which a distinct emissions standard applies or for which different compliance demonstration requirements apply, and
    - (B) the emissions from the emissions unit are quantifiable.
  - (b) Emissions units may be defined on a pollutant-by-pollutant basis where applicable.
  - (c) The term "emissions unit" is not meant to alter or affect the definition of the term "unit" for purposes of Title IV of the FCAA.
  - (d) Parts and activities shall not be grouped for purposes of determining emissions increases from an emissions unit under OAR 340-28-1930 or OAR 340-28-1940 or for purposes of determining the applicability of a New Source Performance Standard (NSPS).
- (15) "EPA" means the Administrator of the United States Environmental Protection Agency or the Administrator's designee.
- (16) "EPA Conditional Method" means any method of sampling and analyzing for air pollutants which has been validated by the EPA but which has not been published as an EPA reference method.
- (17) "EPA Reference Method" means any method of sampling and

- analyzing for an air pollutant as described in 40 CFR Part 60, 61, ~~and~~ or 63 (July 1, 1993).
- (18) "Equipment leaks" means leaks from pumps, compressors, pressure relief devices, sampling connection systems, open ended valves or lines, valves, connectors, agitators, accumulator vessels, and instrumentation systems in hazardous air pollutant service.
  - (19) "Existing source" means any source, the construction of which commenced prior to proposal of an applicable standard under sections 112 or 129 of the FCAA.
  - (20) "Facility" means all or part of any public or private building, structure, installation, equipment, or vehicle or vessel, including but not limited to ships.
  - (21) "Fugitive emissions" means emissions of any air contaminant that escape to the atmosphere from any point or area that is not identifiable as a stack, vent, duct or equivalent opening.
  - (22) "Generally Available Control Technology (GACT)" means an alternative emission standard promulgated by EPA for non-major sources of hazardous air pollutants which provides for the use of control technology or management practices which are generally available.
  - (23) "Hazardous air pollutant" (HAP) means an air pollutant listed by the EPA pursuant to section 112(b) of the FCAA or determined by the Commission to cause, or reasonably be anticipated to cause, adverse effects to human health or the environment.
  - (24) "High-Risk Pollutant" means any air pollutant listed in Table 2 of OAR 340-32-340 for which exposure to small quantities may cause a high risk of adverse public health effects.
  - (25) "Major Source" means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants.
  - (26) "Maximum Achievable Control Technology (MACT)" means an emission standard applicable to major sources of hazardous air pollutants that requires the maximum degree of reduction in emissions deemed achievable for either new or existing sources.
  - (27) "Modification" means any physical change in, or change in the method of operation of, a major source that increases the actual emissions of any HAP emitted by such source by more than a de minimis amount or which results in the emission of any hazardous air pollutant not previously emitted by more than a de minimis amount.
  - (28) "New Source" means a stationary source, the construction of which is commenced after proposal of a federal MACT or the effective date of this Division, whichever is earlier.
  - (29) "Not feasible to prescribe or enforce a numerical emission

limit" means a situation in which the Department determines that a pollutant or stream of pollutants listed in OAR 340-32-130 cannot be emitted through a conveyance designed and constructed to emit or capture such pollutant, or that any requirement for, or use of, such a conveyance would be inconsistent with any state or federal law or regulation; or the application of measurement technology to a particular source is not practicable due to technological or economic limitations.

- (30) "Person" means the United States Government and agencies thereof, any state, individual, public or private corporation, political subdivision, governmental agency, municipality, industry, co-partnership, association, firm, trust, estate, or any other legal entity whatsoever.
- (31) "Potential to emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by the EPA. This section does not alter or affect the use of this section for any other purposes under the Act, or the term "capacity factor" as used in Title IV of the Act or the regulations promulgated thereunder. Secondary emissions shall not be considered in determining the potential to emit of a source.
- (32) "Regional authority" means Lane Regional Air Pollution Authority.
- (33) "Stationary source" means any building, structure, facility, or installation which emits or may emit any hazardous air pollutant.**

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 96, f. 9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82; DEQ 9-1988, f. 5-19-88, cert. ef. 6-1-88 (and corrected 6-3-88); DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90 & 7-8-91); AQ 11-1992, f. & ef. 10-7-91; AQ 1-1993, f. & ef. 3-9-93

## Permit Application Requirements

### Permit Application

340-32-220

- (1) The owner or operator of a HAP source subject to OAR 340-32-400 through 340-32-4500 or 340-32-5500 through 340-32-5650 shall comply with the appropriate application requirements for construction permits, ~~{(OAR 340-32-230)}~~ and operating permits, ~~{(OAR 340-32-240)}~~.
- (2) Notwithstanding the provisions of OAR Chapter 340, Divisions

28 and 32, no stationary source shall be required to apply for, or operate pursuant to, a federal operating permit issued under OAR 340-28-2100 through ~~OAR~~ 340-28-2320 solely because such source is subject to the provisions of OAR 340-32-5400, Accidental Release Prevention.

~~{ }~~ [Note: Rules specifying the full procedures and specific requirements for permitting can be found in OAR Chapter 340, Division 28. ~~{ }~~]

#### Permit to Construct or Modify

340-32-230

- (1) On or a~~A~~fter the effective date of the program no owner or operator shall:
  - (a) construct a new major~~HAP~~ source that will be subject to the federal operating permit program without obtaining an Air Contaminant Discharge Permit (ACDP) pursuant to OAR 340-28-1700 through ~~OAR~~ 340-28-1790 prior to construction;
  - (b) modify any existing major source ~~of HAP~~ operating under a federal operating permit without obtaining a preconstruction notice of approval as described in OAR 340-28-2270 prior to modifying;
  - (c) modify any existing source operating under an ACDP which will become a major~~HAP~~ source after modifying, without obtaining a permit modification pursuant to OAR 340-28-1700 through ~~OAR~~ 340-28-1790 prior to modifying;
  - (d) modify any existing source not currently operating under any permit which will become a major~~HAP~~ source after modifying, without obtaining an ACDP pursuant to OAR 340-28-1700 through ~~OAR~~ 340-28-1790 prior to modifying;
  - (e) modify any existing source operating under an ACDP as a synthetic minor pursuant to OAR 340-28-1740 which will become a major~~HAP~~ source after modifying, without:
    - (A) obtaining a federal operating permit pursuant to OAR 340-28-2100 through ~~OAR~~ 340-28-2320 for those sources proposing to change an enforceable condition in the permit prior to operating as a major source; or
    - (B) obtaining a modified ACDP pursuant to OAR 340-28-1700 through ~~OAR~~ 340-28-1790 for those sources proposing to construct or modify any emissions unit prior to construction or modification.
- (2) Prior to the effective date of the program for a major source and at any time for an area source subject to OAR 340-32-5500 through 340-32-5600 or 340-32-5650, no owner or operator shall:
  - (a) construct a new source subject to OAR 340-32-5500 through 340-32-5600 or 340-32-5650 without obtaining an ACDP pursuant to OAR 340-28-1700 through 340-28-1790;

- (b) modify any existing source subject to OAR 340-32-5500 through 340-32-5600 or 340-32-5650 such that HAP emissions are increased without obtaining a modified ACDP pursuant to OAR 340-28-1700 through 340-28-1790;
- (c) modify any existing source subject to OAR 340-32-5500 through 340-32-5600 or 340-32-5650 such that HAP emissions are not increased without obtaining a notice of construction approval pursuant to OAR 340-28-800 through 340-28-820.

(~~2~~3) All applicants for construction or modification of a major source of HAP shall determine and report to the Department potential emissions of HAP listed in Table 1 (OAR 340-32-130).

Permit to Operate

340-32-240

- (1) On and a[A]fter the effective date of the program or at such earlier date as the Department may establish pursuant to OAR 340-28-2120, no owner or operator shall operate a new, existing, or modified major source of HAP emissions without applying for an operating permit as described below.
  - (a) The following types of HAP sources shall, within 12 months after initial startup of the construction or modification, comply with the federal operating permit application procedures of OAR 340-28-2100 through 340-28-2320:
    - (A) new major sources as described in OAR 340-32-230(a);
    - (B) existing sources operating under an ACDP as described in OAR 340-32-230(c);
    - (C) existing sources previously unpermitted as described in OAR 340-32-230(d);
    - (D) existing synthetic minor sources operating under an ACDP as described in OAR 340-32-230(e) (B) ~~;~~ shall, within 12 months after initial startup of the construction or modification, comply with the federal operating permit application procedures of OAR 340-28-2100 through OAR 340-28-2320.
  - (b) Any existing major ~~HAP~~ sources as described under OAR 340-32-230(b) shall:
    - (A) immediately upon receiving its preconstruction notice of approval, comply with the operating permit procedures described under OAR 340-28-2230 Administrative Amendments, if the source has complied with the enhanced provisions of OAR 340-28-2290 and OAR 340-28-2310;
    - (B) within 12 months of commencing operation comply with the permit application procedures under OAR 340-28-2250 when the modification qualifies as a minor modification or OAR 340-28-2260 when the modification qualifies as a significant modification; or



- (C) at the time of permit renewal comply with the permit application procedures under OAR 340-28-2220(2) when the modification qualifies as an off permit change or OAR 340-28-2220(3) when the modification qualifies as a "502(b)(10)" change.
- (c) Any synthetic minor source as described in OAR 340-32-230(e)(A) shall, prior to commencing operation, apply for and obtain the required federal operating permit according to the procedures of OAR 340-28-2100 through ~~OAR~~ 340-28-2320.
- (d) Any existing major source shall comply with the federal operating permit application procedures of OAR 340-28-2100 through 340-28-2320 upon becoming subject to the federal operating permit program.**
- (2) All major ~~HAP~~ source operating permit applicants shall include in the application:
- (a) all emissions of HAP listed in Table 1 (OAR 340-32-130) in accordance with OAR 340-28-2120(3) Standard Application Form and Required Information, and OAR 340-28-2120(4) Quantifying Emissions;
- (b) an estimate of the use of additional substances, listed in OAR 340, Chapter 135, Appendix 1 and in OAR 340-32-5400 Table 3, that are manufactured, processed, or used at the facility and that could reasonably be expected to be emitted from the source;
- (A) The estimated annual manufacture, processing, or use of each chemical shall be reported within the following ranges: "Not Present"; "Insignificant Use" (less than 1,000 pounds); "1,001 - 10,000 pounds"; "10,000 - 20,000 pounds"; "20,001 - 50,000 pounds"; and "Over 50,000 pounds".
- (B) The owner or operator shall provide estimates of the usage of these additional chemicals based on readily available information. The owner or operator is not required to estimate the "manufacture" of any chemical from combustion or manufacturing processes for which there are no verifiable emission factors, mass balance calculation methods, or for which no EPA approved testing, sampling, or monitoring method exists. The use of chemicals in the following categories are exempt from quantification:
- (i) aggregate insignificant emissions as defined under OAR 340-28-110(5), categorically insignificant activities as defined under OAR 340-28-110(15), insignificant mixture usage as defined under OAR 340-28-110(50);
- (ii) products and fuels for maintaining motor vehicles used onsite; or
- (iii) chemicals used in a manufactured item that are not released under normal circumstances of processing at the facility;

(C) Nothing in paragraphs (A) or (B) above shall require a source to conduct monitoring or testing solely for the purpose of estimating annual usage of the additional substances.

(3) Prior to the effective date of the program for a major source and at any time for an area source, no owner or operator shall operate a new, existing, or modified stationary source subject to OAR 340-32-5500 through 340-32-5600 or 340-32-5650 without first obtaining a permit pursuant to OAR 340-28-1700 through 340-28-1790.

~~[General Provisions]~~ Source Emission Tests

340-~~[25-460(5)]~~ 32-270

Source emission tests ~~and ambient air monitoring.~~ (a) ~~Emission tests and monitoring~~ shall be conducted using an applicable EPA Reference Method or an applicable method~~s~~ set forth in the Department's Source Sampling Manual.

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 96, f. 9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82; DEQ 19-1986, f. & ef. 11-7-86; DEQ 9-1988, f. 5-19-88, cert. ef. 6-1-88 (and corrected 6-3-88); DEQ 24-1989, f. & cert. ef. 10-26-89; AQ 11-1992, f. & ef. 10-7-91; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-25-460(5)

Emission Standards and Procedural Requirements for Hazardous Air Contaminants Regulated Prior to the 1990 Amendments to the Federal Clean Air Act

Applicability

340-~~[25-460(1)]~~ 32-5500~~[Applicability.]~~ OAR 340-~~[25-450]~~ 32-5500 through 340-~~[25-485]~~ 32-5650 shall apply to any ~~source which emits air contaminants for which a hazardous air contaminant standard is prescribed~~ stationary source identified in OAR 340-32-5530 through 340-32-5650. Compliance with OAR 340-~~[25-450]~~ 32-5530 through 340-~~[25-485]~~ 32-5650 shall not relieve the source from compliance with other applicable rules of ~~the Oregon Administrative Rules, Chapter 340~~ this Chapter, ~~for~~ with applicable provisions of the Oregon Clean Air Implementation Plan, or with any other applicable federal requirement.

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

Stat. Auth.: ORS Ch. 468 & 468A

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

10-21-82; DEQ 19-1986, f. & ef. 11-7-86; DEQ 9-1988, f. 5-19-88, cert. ef. 6-1-88 (and corrected 6-3-88); DEQ 24-1989, f. & cert. ef. 10-26-89; AQ 11-1992, f. & ef. 10-7-91; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-25-460(1)

#### General Requirements

~~340-[25-460(4)]32-5510~~ Notification of startup.  
~~[Notwithstanding OAR 340-20-140 through OAR 340-20-185]~~In addition to any other notification requirement, any person owning or operating a new source of emissions subject to ~~[these emission standards]~~ OAR 340-32-5500 through 340-32-5600 or 340-32-5650 shall furnish the Department written notification as follows:

- ~~(a)~~1) Notification of the anticipated date of startup of the source not more than 60 days nor less than 30 days prior to the anticipated date.
- ~~(b)~~2) Notification of the actual startup date of the source within 15 days after the actual date.

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 96, f. 9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82; DEQ 19-1986, f. & ef. 11-7-86; DEQ 9-1988, f. 5-19-88, cert. ef. 6-1-88 (and corrected 6-3-88); DEQ 24-1989, f. & cert. ef. 10-26-89; AQ 11-1992, f. & ef. 10-7-91; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-25-460(4)

#### Federal Regulations Adopted by Reference

340-32-5520

- (1) Except as provided in section (2) of this rule, 40 CFR Part 61, Subparts A through F, J, L, N through P, V, and Y through FF (July 1, 1993) are by this reference adopted and incorporated herein.
- (2) Where "Administrator" or "EPA" appears in 40 CFR Part 61, "Department" shall be substituted, except in any section of 40 CFR Part 61 for which a federal rule or delegation specifically indicates that authority will not be delegated to the state.
- (3) If a discrepancy is determined to exist between OAR 340-32-5530 through 340-32-5650 and the applicable sections of 40 CFR Part 61, 40 CFR Part 61 shall apply.

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

Stat. Auth.: ORS Ch. 468 & 468A

~~[Work Practice]~~Emission Standards for Radon~~[222]~~ Emissions from Underground Uranium Mines

~~340-[25-485]32-5530~~ ~~[The work practice standard for Radon-222 Emissions from active Underground Uranium Mines, 40 CFR, Part 61, Section 61.20 through 61.28, as published in 50 FR 15392 on April 17, 1985, is adopted by reference and made a part~~

~~of OAR 340-25-450 through 340-25-485. The standard requires airtight bulkheads to prevent Radon 222 from escaping from abandoned parts of uranium mines that are extracting greater than 10,000 tons of ore per year, or will extract more than 100,000 tons of ore during the life of the mine.]~~

- (1) Applicability. This rule applies to an underground uranium mine which is being ventilated to allow workers to enter the mine for any purpose and:
- (a) has mined, will mine or is designed to mine over 100,000 tons of ore during the life of the mine;  
or
  - (b) has had or will have an annual ore production rate greater than 10,000 tons, unless it can be demonstrated to the Department that the mine will not exceed total ore production of 100,000 tons during the life of the mine.
- (2) Requirements. Uranium mines subject to this rule shall comply with 40 CFR Part 61, Subpart B, as adopted under OAR 340-32-5520.
- (3) Definitions. As used in this rule, "Underground uranium mine" means a man-made underground excavation made for the purpose of removing material containing uranium for the principal purpose of recovering uranium.

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 19-1986, f. & ef. 11-7-86; AQ 1-1993, f. & ef. 3-9-93;  
Renumbered from OAR 340-25-485

#### Emission Standards for Beryllium

340-~~25-470~~32-5540

##### (1) Emissions Standards for Beryllium Processing

- ~~(1)a~~ Applicability. The provisions of this rule are section applicable to the following emission sources of beryllium stationary sources:
- ~~(a)A~~ Extraction plants, ceramic plants, foundries, incinerators, and propellant plants which process beryllium, beryllium ore, beryllium oxides, beryllium alloys, or beryllium-containing waste; and
  - ~~(b)B~~ Machine shops which process beryllium, beryllium oxides, or any alloy when such alloy contains more than five percent (5%) beryllium by weight.
- ~~(c) Other sources, the operation of which results or may result in the emission of beryllium to the outside air.~~
- ~~(2) Emission limit:~~
- ~~(a) No person shall cause to be discharged into the atmosphere emissions from any source exceeding 10 grams~~

- of beryllium for any 24 hour period;
- ~~(b) The burning of beryllium and/or beryllium containing waste except propellants is prohibited except in incinerators, emissions from which must comply with the standard;~~
- ~~(c) Stack sampling:~~
- ~~(A) Unless a deferral of emission testing is obtained under the provisions of OAR 340-25-460(6)(c), each person operating a source subject to this rule shall test emissions from the source subject to the following schedule:~~
- ~~(i) By December 24, 1975 for existing sources or for new sources having startup dates prior to September 25, 1975;~~
- ~~(ii) Within ninety (90) days of startup in the case of a new source having a startup date after September 25, 1975.~~
- ~~(B) The Department shall be notified at least thirty (30) days prior to an emission test so that they may, at their option, observe the test;~~
- ~~(C) Samples shall be taken over such periods and frequencies as necessary to determine the maximum emissions occurring during any 24 hour period. Calculations of maximum 24 hour emissions shall be based on that combination of process operating hours and any variation in capacities or processes that will result in maximum emissions. No changes in operation which may be expected to increase total emissions over those determined by the most recent stack test shall be made until estimates of the increased emissions have been calculated, and have been reported to and approved in writing by the Department;~~
- ~~(D) All samples shall be analyzed and beryllium emissions shall be determined and reported to the Department within thirty (30) days following the stack test. Records of emission test results and other data needed to determine beryllium emissions shall be retained at the source and made available for inspection by the Department for a minimum of two (2) years following such determination.]~~

**(b) Requirements. Stationary sources subject to this section shall comply with 40 CFR Part 61, Subpart C, as adopted under OAR 340-32-5520.**

**(2) Emission Standard for Beryllium Rocket Motor Firing**

~~[340-25-475 The emission standard for Beryllium Rocket Motor Firing, 40 CFR, Part 61, Section 61.40 through 61.44, as last amended on November 7, 1985, is adopted by reference and made a part of OAR 340-25-450 through 340-25-485. A copy of this emission standard is on file at the Department of Environmental Quality.]~~

**(a) Applicability. This section applies to rocket motor**

test sites.

(b) Requirements. Test sites subject to this section shall comply with 40 CFR Part 61, Subpart D, as adopted under OAR 340-32-5520.

(3) Definitions. As used in this rule:

- ~~(9)~~a) "Beryllium" means the element beryllium. Where weights or concentrations are specified ~~in OAR 340-25-470 and 340-25-475~~, such weights or concentrations apply to beryllium only, excluding any associated elements. [Renumbered from 340-25-455(9)]
- ~~(10)~~b) "Beryllium alloy" means any metal to which beryllium has been added in order to increase its beryllium content, and which contains more than 0.1 percent beryllium by weight. [Renumbered from 340-25-455(10)]
- ~~(11)~~c) "Beryllium-containing waste" means any material contaminated with beryllium ~~and/or~~ beryllium compounds used or generated during any process or operation performed by a source subject to OAR 340-~~25-450 through 340-25-485~~32-5540(1). [Renumbered from 340-25-455(11)]
- ~~(12)~~d) "Beryllium ore" means any naturally occurring material mined or gathered for its beryllium content. [Renumbered from 340-25-455(12)]
- (e) "Ceramic plant" means a manufacturing plant producing ceramic items.
- (f) "Extraction plant" means a facility chemically processing beryllium ore to beryllium metal, alloy, or oxide, or performing any of the intermediate steps in these processes.
- (g) "Foundry" means a facility engaged in the melting or casting of beryllium metal or alloy.
- (h) "Incinerator" means any furnace used in the process of burning waste for the primary purpose of reducing the volume of the waste by removing combustible matter.
- (i) "Machine shop" means a facility performing cutting, grinding, turning, honing, milling, deburring, lapping, electrochemical machining, etching, or other similar operations.
- ~~(33)~~j) "Propellant" means a fuel and oxidizer physically or chemically combined, containing beryllium or beryllium compounds, which undergoes combustion to provide rocket propulsion. [Renumbered from 340-25-455(33)]
- ~~(34)~~k) "Propellant plant" means any facility engaged in the mixing, casting, or machining of propellant. [Renumbered from 340-25-455(34)]
- (l) "Rocket motor test site" means any building, structure, facility, or installation where the

static test firing of a beryllium rocket motor or  
the disposal of beryllium propellant is conducted.

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 96, f. 9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82; DEQ 19-1986, f. & ef. 11-7-86; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-25-475 and OAR 340-25-485

Emission Standards for Mercury

~~340-25-480~~ 32-5550

- (1) Applicability. ~~The provisions of this rule are~~ applicable to ~~sources~~ stationary sources which process mercury ore to recover mercury, ~~sources~~ using the mercury chlor-alkali cells to produce chlorine gas and alkali metal hydroxide, and ~~to any other source, the operation of which results or may result in the emission of mercury to the ambient air~~ incinerate or dry wastewater treatment plant sludge.
- ~~(2) Emission Standard. No person shall cause to be discharged into the atmosphere emissions from any source exceeding 2,300 grams of mercury during any 24 hour period, except that mercury emissions to the atmosphere from sludge incineration plants, sludge drying plants, or a combination of these that process wastewater treatment plant sludge shall not exceed 3,200 grams of mercury per 24 hour period.~~
- ~~(3) Stack sampling:~~
- ~~(a) Mercury ore processing facility:~~
- ~~(A) Unless a deferral of emission testing is obtained under OAR 340-25-460(6)(c), each person operating a source processing mercury ore shall test emissions from the source, subject to the following:~~
- ~~(i) By December 24, 1975 for existing sources or for new sources having startup dates prior to September 25, 1975;~~
- ~~(ii) Within ninety (90) days of startup in the case of a new source having a startup date after September 25, 1975.~~
- ~~(B) The Department shall be notified at least thirty (30) days prior to an emission test so that they may, at their option, observe the test;~~
- ~~(C) Samples shall be taken over such periods and frequencies as necessary to determine the maximum emissions occurring during any 24 hour period. Calculations of maximum 24 hour emissions shall be based on that combination of process operating hours and any variation in capacities or processes that will result in maximum emissions. No changes~~

~~in operation which may be expected to increase total emissions over those determined by the most recent stack test shall be made until estimates of the increased emissions have been calculated, and have been reported to and approved in writing by the Department;~~

~~(D) All samples shall be analyzed and mercury emissions shall be determined and reported to the Department within thirty (30) days following the stack test. Records of emission test results and other data needed to determine mercury emissions shall be retained at the source and made available for inspection by the Department for a minimum of two (2) years following such determination.~~

~~(b) Mercury Chlor alkali plant:~~

~~(A) Hydrogen and end box ventilation gas streams. Unless a deferral of emission testing is obtained under OAR 340 25 460(6) (c), each person operating a source of this type shall test emissions from his source following the provisions of subsection (3) (a) of this rule;~~

~~(B) Room ventilation system:~~

~~(i) Unless a deferral of emission testing is obtained under OAR 340 25 460(6) (c), all persons operating mercury chlor alkali plants shall pass all cell room air in forced gas streams through stacks suitable for testing;~~

~~(ii) Emissions from cell rooms may be tested in accordance with provisions of paragraph (3) (b) (A) of this rule or may demonstrate compliance with subparagraph (3) (b) (B) (iii) of this rule and assume ventilation emissions of 1,300 grams/day of mercury;~~

~~(iii) If no deferral of emission testing is requested, each person testing emissions shall follow the provisions of subsection (3) (a) of this rule.~~

~~(c) Any person operating a mercury chlor alkali plant may elect to comply with room ventilation sampling requirements by carrying out approved design, maintenance, and housekeeping practices. A summary of these approved practices shall be available from the Department;~~

~~(d) Stack sampling and sludge sampling at wastewater treatment plants shall be performed in accordance with 40 CFR 61.53(d) or 40 CFR 61.54, last amended by Federal Register March 19, 1987, pages 8724 to 8728.]~~

**(2) Requirements. Stationary sources subject to this rule shall comply with 40 CFR Part 61, Subpart E, as adopted under OAR 340-32-5520.**

**(3) Definitions. As used in this rule:**

~~{26}a~~ "Mercury" means the element mercury, excluding any



associated elements and includes mercury in particulates, vapors, aerosols, and compounds.

[Renumbered from 340-25-455(26)]

- (~~29~~)b) "Mercury chlor-alkali cell" means a device which is basically composed of an electrolyzer section and a denuder (decomposer) section, and utilizes mercury to produce chlorine gas, hydrogen gas, and alkali metal hydroxide. [Renumbered from 340-25-455(29)]
- (~~27~~)c) "Mercury ore" means any mineral mined specifically for its mercury content. [Renumbered from 340-25-455(27)]

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 96, f. 9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82; DEQ 19-1986, f. & ef. 11-7-86; DEQ 24-1989, f. & cert. ef. 10-26-89; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-25-480

### Emission Standard for Vinyl Chloride

340-32-5560

#### (1) Applicability

(a) Except as provided in subsection (b) of this section, this rule applies to plants which produce:

(A) Ethylene dichloride by reaction of oxygen and hydrogen chloride with ethylene;

(B) Vinyl chloride by any process; or

(C) One or more polymers containing any fraction of polymerized vinyl chloride.

(b) Equipment used in research and development for which the reactor used to polymerized the vinyl chloride processed in the equipment has a capacity of no more than 0.19 m<sup>3</sup> (50 gal) is not subject to this rule.

#### (2) Requirements

(a) Except as provided in subsection (b) of this section, plants subject to this rule shall comply with 40 CFR Part 61, Subpart F, as adopted under OAR 340-32-5520.

(b) Equipment used in research and development for which the reactor used to polymerize the vinyl chloride processed in the equipment has a capacity of greater than 0.19 m<sup>3</sup> (50 gal) and no more than 4.17 m<sup>3</sup> (1100 gallons) is subject only to 40 CFR 61.61; 61.64(a)(1), 61.64(b) through 61.64(d); and 61.67 through 61.71.

#### (3) Definitions. As used in this rule:

(a) "Ethylene dichloride plant" includes any plant which produces ethylene dichloride by reaction of oxygen and hydrogen chloride with ethylene.

(b) "Polyvinyl chloride plant" includes any plant where

vinyl chloride alone or in combination with other materials is polymerized.

- (c) "Vinyl chloride plant" includes any plant which produces vinyl chloride by any process.

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

Stat. Auth.: ORS Ch. 468 & 468A

Emission Standards for Benzene

340-32-5570

- (1) Emission Standards for Equipment Leaks (Fugitive Emission Sources) of Benzene

(a) Applicability

(A) Except as provided in paragraph (B) of this subsection, this section applies to each of the following fugitive emission sources intended to operate in benzene service: pumps, compressors, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, flanges and other connectors, product accumulator vessels, and control devices or systems required by 40 CFR Part 61, Subpart J.

(B) Fugitive emission sources located in coke by-product plants are not subject to this section.

- (b) Requirements. Except as provided in paragraphs (A) and (B) of this subsection, fugitive emissions sources subject to this section shall comply with 40 CFR Part 61, Subpart J, as adopted under OAR 340-32-5520.

(A) Any fugitive emission source in benzene service that is located at a plant site designed to produce or use less than 1,000 megagrams of benzene per year is exempt from 40 CFR 61.112, provided that records are maintained as required by 40 CFR 61.246(i).

(B) Any process unit that has no equipment in benzene service is exempt from 40 CFR, Section 61.112, provided that records are maintained as required by 40 CFR 61.246(i).

- (c) Special Provisions. Fugitive emission sources which are subject to this section are not required to comply with fugitive emission provisions of 40 CFR Part 60.

- (2) Emission Standards for Benzene Emissions from Coke By-Product Recovery Plants

(a) Applicability. This section applies to:

(A) The following stationary sources at furnace and foundry coke by-product recovery plants: tar decanters, tar storage tanks, tar-intercepting sumps, flushing-liquor circulation tanks, light-oil slumps, light-oil condensers, light-oil

decanters, wash-oil decanters, wash-oil circulation tanks, naphthalene processing, final coolers, final-cooler cooling towers, and the following equipment that are intended to operate in benzene service: pumps, valves, coke oven exhausters, pressure relief devices, sampling connection systems, open-ended valves or lines, flanges or other connectors, and control devices or systems required by 40 CFR 61.135; and

(B) The following stationary sources at furnace coke by-product recovery plants: benzene storage tanks, BTX storage tanks, light-oil storage tanks, and excess ammonia-liquor storage tanks.

(b) Requirements. Stationary sources subject to this section shall comply with 40 CFR Part 61, Subpart L, as adopted under OAR 340-32-5520.

(3) Emission Standards for Benzene Emissions from Benzene Storage Vessels

(a) Applicability. Except as provided in paragraphs (A) through (C) of this subsection, this section applies to each storage vessel that is storing benzene which has a specific gravity within the range of specific gravities specified in ASTM D 836-84 for Industrial Grade Benzene, ASTM D 835-85 for Refined Benzene-485, ASTM D 2359-85a for Refined Benzene-535, and ASTM D 4734-87 for Refined Benzene-545.

(A) Storage vessels used for storing benzene at coke by-product facilities are not subject to this section.

(B) Vessels permanently attached to motor vehicles such as trucks, rail cars, barges, or ships are not subject to this section.

(C) Pressure vessels designed to operate in excess of 204.9 kPa and without emissions to the atmosphere are not subject to this section.

(b) Requirements

(A) Except as provided in paragraph (B) of this subsection, storage vessels subject to this section shall comply with 40 CFR Part 61, Subpart Y, as adopted under OAR 340-32-5520.

(B) Storage vessels with a design storage capacity less than 38 cubic meters (10,000 gallons) are subject only to 40 CFR 61.276(b).

(c) Special Provisions. A storage vessel subject to this section that is also subject to applicable provisions of 40 CFR Part 60, Subparts K, Ka, and Kb shall be required to comply only with the subpart that contains the most stringent requirements for that source.

(4) Emission Standards for Benzene Emissions from Benzene Transfer Operations

(a) Applicability.

(A) Except as provided in paragraph (B) of this

subsection, this section applies to the total of all loading racks at which benzene is loaded into tank trucks, rail cars, or marine vessels at each benzene production facility and each bulk terminal.

(B) Loading racks at which only the following are loaded are not subject to this section: Benzene-laden waste, gasoline, crude oil, natural gas liquids, petroleum distillates (e.g., fuel oil, diesel, or kerosene), or benzene-laden liquid from coke by-product recovery plants.

(b) Requirements. Except as provided in paragraphs (A) through (C) of this subsection, facilities subject to this rule shall comply with 40 CFR Part 61, Subpart BB, as adopted under OAR 340-32-5520.

(A) 40 CFR 61.302 applies only to each loading rack which handles liquid containing 70 weight-percent or more benzene.

(B) If only liquid containing less than 70 weight-percent benzene is loaded at a facility subject to this rule, the facility is subject only to the recordkeeping and reporting requirements in 40 CFR 61.305(i).

(C) If the total of all liquid containing 70 weight-percent or more benzene loaded at a facility subject to this rule is less than 1.3 million liters per year, the facility is subject only to the recordkeeping and reporting requirements in 40 CFR 61.305(i).

(5) Emission Standards for Benzene Waste Operations

(a) Applicability. Except as provided in paragraphs (A) and (B) of this subsection, this section applies to hazardous waste treatment, storage, and disposal facilities subject to subtitle C of the federal Solid Waste Disposal Act that treat, store, or dispose of benzene-containing hazardous waste generated at chemical manufacturing plants, coke by-product recovery plants, and petroleum refineries.

(A) Waste in the form of gases or vapors that is emitted from process fluids is exempt from this section.

(B) Waste that is contained in a segregated stormwater sewer system is exempt from this section.

(b) Requirements. Hazardous waste treatment, storage, and disposal facilities subject to this section shall comply with 40 CFR Part 61, Subpart FF, as adopted under OAR 340-32-5520.

(6) Definitions. As used in this rule:

(a) "Benzene bulk terminal" means any facility which receives liquid product containing benzene by pipelines, marine vessels, tank trucks, or rail cars, and loads the product for further

- distribution into tank trucks, rail cars, or marine vessels.
- (b) "Benzene storage tank" means any tank, reservoir, or container used to collect or store refined benzene.
  - (c) "BTX storage tank" means any tank, reservoir, or container used to collect or store benzene-toluene-xylene or other light-oil fractions.
  - (d) "Bulk terminal" means any facility which receives liquid product containing benzene by pipelines, marine vessels, tank trucks or rail cars, and loads the product for further distribution into tank trucks, rail cars, or marine vessels.
  - (e) "Chemical manufacturing plant" means any facility engaged in the production of chemicals by chemical, thermal, physical, or biological processes for use as a product, co-product, by-product, or intermediate, including but not limited to, industrial organic chemicals, organic pesticide products, pharmaceutical preparations, paint and allied products, fertilizers, and agricultural chemicals.
  - (f) "Coke by-product recovery plant" means any plant or facility designed and operated for the separation and recovery of coal tar derivatives (by-products) evolved from coal during the coking process of a coke oven battery.
  - (g) "Excess ammonia-liquor storage tank" means any tank, reservoir, or container used to collect or store a flushing liquor solution prior to ammonia or phenol recovery.
  - (h) "Exhauster" means a fan located between the inlet gas flange and outlet gas flange of the coke oven gas line that provides motive power for coke oven gases.
  - (i) "Flushing-liquor circulation tank" means any vessel that functions to store or contain flushing liquor that is separated from the tar in the tar decanter and is recirculated as the cooled liquor to the gas collection system.
  - (j) "Foundry coke" means coke that is produced from raw materials with less than 26 percent volatile material by weight and that is subject to a coking period of 24 hours or more. Percent volatile material of the raw materials (by weight) is the weighted average percent volatile material of all raw materials (by weight) charged to the coke oven per coking cycle.
  - (k) "Foundry coke by-product recovery plant" means a coke by-product recovery plant connected to coke batteries whose annual coke production is at least 75 percent foundry coke.

- (l) "Furnace coke" means coke produced in by-product ovens that is not foundry coke.
- (m) "Furnace coke by-product recovery plant" means a coke by-product recovery plant that is not a foundry coke by-product recovery plant.
- (n) "In benzene service", as used in section (1) of this rule, means a piece of equipment that either contains or contacts a fluid (liquid or gas) that is at least 10 percent benzene by weight as determined according to the provisions of 40 CFR 61.245(d).
- (o) "In-benzene service", as used in section (2) of this rule, means a piece of equipment, other than an exhauster, that either contains or contacts a fluid (liquid or gas) that is at least 10 percent benzene by weight or any exhauster that either contains or contacts a fluid (liquid or gas) at least one percent benzene by weight as determined according to the provisions of 40 CFR 61.137(b).
- (q) "Light-oil condenser" means any unit in light-oil recovery operations that condenses vapors.
- (r) "Light-oil decanter" means any vessel, tank, or other type of device in light-oil recovery operations that functions to separate light oil from water downstream of the light-oil condenser. A light-oil decanter may also be known as a light-oil separator.
- (s) "Light-oil storage tank" means any tank, reservoir, or container used to collect or store crude or refined light-oil.
- (t) "Light-oil sump" means any tank, pit, enclosure, or slop tank in light-oil recovery operations that functions as a wastewater separation device for hydrocarbon liquids on the surface of the water.
- (u) "Loading rack" means the loading arms, pumps, meters, shutoff valves, relief valves, and other piping and valves necessary to fill tank trucks, rail cars, or marine vessels.
- (v) "Marine vessel" means any tank ship or tank barge which transports liquid product such as benzene.
- (w) "Naphthalene processing" means any operations required to recover naphthalene including the separation, refining, and drying of crude or refined naphthalene.
- (x) "Open-ended valve or line" means any valve, except pressure relief valves, having one side of the valve seat in contact with process fluid and one side open to atmosphere, either directly or through open piping.
- (y) "Petroleum refinery" means any facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants, or other

products through the distillation of petroleum, or through the redistillation, cracking, or reforming of unfinished petroleum derivatives.

- (z) "Process unit" means equipment assembled and connected by pipes or ducts to produce intermediate or final products. A process unit can be operated independently if supplied with sufficient fuel or raw materials and sufficient product storage facilities.
- (aa) "Product accumulator vessel" means any distillate receiver, bottoms receiver, surge control vessel, or product separator that is vented to atmosphere either directly or through a vacuum-producing system.
- (bb) "Segregated stormwater sewer system" means a drain and collection system designed and operated for the sole purpose of collecting rainfall runoff at a facility, and which is segregated from all other individual drain systems.
- (cc) "Tar decanter" means any vessel, tank, or container that functions to separate heavy tar and sludge from flushing liquor by means of gravity, heat, or chemical emulsion breakers. A tar decanter also may be known as a flushing-liquor decanter.
- (dd) "Tar storage tank" means any vessel, tank, reservoir, or other type of container used to collect or store crude tar or tar-entrained naphthalene, except for tar products obtained by distillation, such as coal tar pitch, creosotes, or carbolic oil. This definition also includes any vessel, tank, reservoir, or container used to reduce the water content of the tar by means of heat, residence time, chemical emulsion breakers, or centrifugal separation. A tar storage tank also may be known as a tar-dewatering tank.
- (ee) "Tar-intercepting sump" means any tank, pit, or enclosure that serves to receive or separate tars and aqueous condensate discharge from the primary cooler. A tar-intercepting sump also may be known as a primary-cooler decanter.
- (ff) "Wash-oil circulation tank" means any vessel that functions to hold the wash oil used in light-oil recovery operations or the wash oil used in the wash-oil final cooler.
- (gg) "Wash-oil decanter" means any vessel that functions to separate, by gravity, the condensed water from the wash oil received from a wash-oil final cooler or from a light-oil scrubber.
- (hh) "Waste" means any material resulting from industrial, commercial, mining or agricultural operations, or from community activities that is

discarded or is being accumulated, stored, or physically, chemically, thermally, or biologically treated prior to being discarded, recycled, or discharged.

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

Stat. Auth.: ORS Ch. 468 & 468A

Emission Standards for Arsenic

340-32-5580

- (1) Emission Standard for Inorganic Arsenic Emissions from Glass Manufacturing Plants
  - (a) Applicability. Except as provided in paragraph (A) and (B) of this subsection, this section applies to each glass melting furnace that uses commercial arsenic as a raw material.
    - (A) Pot furnaces are not subject to this section.
    - (B) Rebricking is not considered construction or modification for the purposes of 40 CFR 61.05(a).
  - (b) Requirements. Glass melting furnaces subject to this section shall comply with 40 CFR Part 61, Subpart N, as adopted under OAR 340-32-535.
- (2) Emission Standard for Inorganic Arsenic Emissions from Primary Copper Smelters
  - (a) Applicability. Except as provided in 40 CFR 61.172(a), this section applies to each copper converter at any new or existing primary copper smelter.
  - (b) Requirements. Copper converters subject to this section shall comply with 40 CFR Part 61, Subpart O, as adopted under OAR 340-32-5520.
- (3) Emission Standard for Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities
  - (a) Applicability. This section applies to each metallic arsenic production plant and to each arsenic trioxide plant that processes low grade arsenic bearing materials by a arsenic feed roasting condensation process.
  - (b) Requirements. Plants subject to this section shall comply with 40 CFR Part 61, Subpart P, as adopted under OAR 340-32-5520.
- (4) Definitions. As used in this rule:
  - (a) "Arsenic feed roasting" means the use of a furnace to heat arsenic plant feed material for the purpose of eliminating a significant portion of the volatile materials contained in the feed.
  - (b) "Commercial arsenic" means any form of arsenic that is produced by extraction from any arsenic-containing substance and is intended for sale or for intentional



- use in a manufacturing process. Arsenic that is a naturally occurring trace constituent of another substance is not considered "commercial arsenic."
- (c) "Copper converter" means any vessel in which copper matte is charged and is oxidized to copper.
- (d) "Glass melting furnace" means a unit comprising a refractory vessel in which raw materials are charged, melted at high temperature, refined, and conditioned to produce molten glass. The unit includes foundations, superstructure and retaining walls, raw material charger systems, heat exchangers, melter cooler system, exhaust system, refractory brick work, fuel supply and electrical boosting equipment, integral control systems and instrumentation, and appendages for conditioning and distributing molten glass to forming apparatuses. The forming apparatuses, including the float bath used in flat glass manufacturing, are not considered part of the glass melting furnace.
- (e) "Inorganic arsenic" means the oxides and other noncarbon compounds of the element arsenic included in particulate matter, vapors, and aerosols.
- (f) "Pot furnace" means a glass melting furnace that contains one or more refractory vessels in which glass is melted by indirect heating. The openings of the vessels are in the outside wall of the furnace and are covered with refractory stoppers during melting.
- (g) "Primary copper smelter" means any installation or intermediate process engaged in the production of copper from copper-bearing material through the use of pyrometallurgical techniques.
- (h) "Rebricking" means cold replacement of damaged or worn refractory parts of the glass melting furnace. Rebricking includes replacement of the refractories comprising the bottom, sidewalls, or roof of the melting vessel; replacement of refractory work in the heat exchanger; and replacement of refractory portions of the glass conditioning and distribution system.

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

Stat. Auth.: ORS Ch. 468 & 468A

#### Definitions for Asbestos Emission Standards and Procedural Requirements

- 340-32-5590 As used in OAR 340-32-5600 through 340-32-5650:
- (+11) "Adequately wet" means to sufficiently mix or penetrate asbestos-containing material with liquid to prevent the release of particulate asbestos materials. The absence of visible emissions is not sufficient evidence of

- being adequately wet. [Renumbered from 340-25-455(1)]
- (-42) "Asbestos" means the asbestiform varieties of serpentine (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite (amosite), anthophyllite, actinolite and tremolite. ~~["]~~ [Renumbered from 340-25-455(2)]
- (-43) "Asbestos abatement project" means any demolition, renovation, repair, construction or maintenance activity of any public or private facility that involves the repair, enclosure, encapsulation, removal, salvage, handling or disposal of any material with the potential of releasing asbestos fibers from asbestos-containing material into the air. ~~[NOTE: An asbestos abatement project is not considered to be a source under OAR 340-25-460(2) through (6).]~~ Emergency fire fighting is not an asbestos abatement project. [Renumbered from 340-25-455(4)]
- (-54) "Asbestos manufacturing operation" means the combining of commercial asbestos, or in the case of woven friction products, the combining of textiles containing commercial asbestos with any other material(s) including commercial asbestos, and the processing of this combination into a product as specified in OAR 340-~~25-465~~32-5590(3). [Renumbered from 340-25-455(5)]
- (-65) "Asbestos-containing material" means asbestos or any material containing more than one percent (1%) asbestos by weight, including particulate asbestos material. [Renumbered from 340-25-455(6)]
- (-76) "Asbestos mill" means any facility engaged in the conversion or any intermediate step in the conversion of asbestos ore into commercial asbestos. [Renumbered from 340-25-455(7)]
- (-87) "Asbestos tailings" mean any solid waste product of asbestos mining or milling operations which contains asbestos. [Renumbered from 340-25-455(8)]
- (-428) "Asbestos Waste generator" means any person performing an asbestos abatement project or any owner or operator of a source ~~[covered by this section]~~ subject to OAR 340-32-5590 through 340-32-5650 whose act or process generates asbestos-containing waste material. [Renumbered from 340-25-455(42)]
- (-39) "Asbestos-containing waste material" means any waste which contains asbestos tailings or any commercial asbestos, and is generated by a source subject to OAR 340-~~25-450~~32-5500 through 340-~~25-469~~32-5520 and OAR 340-32-5590 through 340-32-5650. This term includes, but not limited to, filters from control devices, asbestos abatement project waste, and bags or containers that previously contained commercial asbestos. [Renumbered from 340-25-455(3)]
- (-4310) "Asbestos ~~[w]~~ waste shipment record" means the shipment document, required to be originated and signed by the

- asbestos waste generator; used to track and substantiate the disposition of asbestos-containing waste material. [Renumbered from 340-25-455(43)]
- (~~13~~11) "Commercial asbestos" means ~~any variety of~~ asbestos which is produced by extracting asbestos from asbestos ore. [Renumbered from 340-25-455(13)]
- (~~15~~12) "Demolition" means the wrecking or removal of any load-supporting structural member of a facility together with any related handling operations or the intentional burning of any facility. [Renumbered from 340-25-455(15)]
- (~~18~~13) "Fabricating" means any processing (e.g., cutting, sawing, drilling) of a manufactured product that contains commercial asbestos, with the exception of processing at temporary sites (field fabricating) for the construction or restoration of facilities. In the case of friction products, fabricating includes bonding, debonding, grinding, sawing, drilling, or other similar operations performed as part of fabricating. [Renumbered from 340-25-455(18)]
- (~~20~~14) "Friable asbestos material" means any asbestos-containing material that hand pressure can crumble, pulverize or reduce to powder when dry. [Renumbered from 340-25-455(20)]
- (15) "Full-scale asbestos abatement project" means any removal, renovation, encapsulation, repair or maintenance of any asbestos-containing material which could potentially release asbestos fibers into the air, and which is not classified as a small-scale asbestos abatement project.
- (~~23~~16) "HEPA filter" means a high efficiency particulate air filter capable of filtering 0.3 micron particles with 99.97 percent efficiency. [Renumbered from 340-25-455(23)]
- (~~24~~17) "Inactive asbestos-containing waste disposal site" means any disposal site for asbestos-containing waste where the operator has allowed the Department's solid waste permit to lapse, has gone out of business, or no longer receives asbestos-containing waste. [Renumbered from 340-25-455(24)]
- (~~25~~18) "Interim storage of asbestos-containing material" means the storage of asbestos-containing waste material which has been placed in a container outside a regulated area until transported to an authorized landfill. [Renumbered from 340-25-455(25)]
- (~~30~~19) "Nonfriable asbestos-containing material" means any material containing more than one percent (1%) asbestos as determined by weight that when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure. [Renumbered from 340-25-455(30)]
- (~~31~~20) "Particulate asbestos material" means any finely divided particles of asbestos material. [Renumbered from 340-25-455(31)]

- (~~36~~21) "Renovation" means altering in any way one or more facility components. Operations in which load-supporting structural members are wrecked or removed are excluded. [Renumbered from 340-25-455(36)]
- (~~38~~22) "Small-scale asbestos abatement project" means ~~any asbestos abatement project which meets the definition given in OAR 340 33 020(17)~~ any small-scale, short-duration renovating and maintenance activity or removal, renovation, encapsulation, repair, or maintenance procedures intended to prevent asbestos-containing material from releasing fibers into the air and which:
- (a) Removes, encapsulates, repairs or maintains less than 40 linear feet or 80 square feet of asbestos-containing material;
  - (b) Does not subdivide an otherwise full-scale asbestos abatement project into smaller sized units in order to avoid the requirements of this Division;
  - (c) Utilizes all practical worker isolation techniques and other control measures; and
  - (d) Does not result in worker exposure to an airborne concentration of asbestos in excess of 0.1 fibers per cubic centimeter of air, calculated as an eight (8) hour time weighted average. [Renumbered from 340-25-455(38)]
- (~~39~~23) "Small-scale, short-duration renovating and maintenance activity" means ~~an activity which meets the definition given in OAR 340 33 020(18)~~ a task for which the removal of asbestos is not the primary objective of the job, including, but not limited to:
- (a) Removal of quantities of asbestos-containing insulation on pipes;
  - (b) Removal of small quantities of asbestos-containing insulation on beams or above ceilings;
  - (c) Replacement of an asbestos-containing gasket on a valve;
  - (d) Installation or removal of a small section of drywall;
  - (e) Installation of electrical conduits through or proximate to asbestos-containing materials.
- Small-scale, activities shall be limited to no more than 40 linear feet or 80 square feet of asbestos-containing material. An asbestos abatement activity that would otherwise qualify as a full-scale abatement project shall not be subdivided into smaller units in order to avoid the requirements of this Division; or
- (f) No such activity described above shall result in airborne asbestos concentrations above 0.1 fibers per cubic centimeter of air (calculated as an eight (8) hour time weighted average). [Renumbered from 340-25-455(39)]
- (~~41~~24) "Structural member" means any load-supporting member of a facility, such as beams and load-supporting walls; or

any non-supporting member, such as ceilings and non-load-supporting walls. [Renumbered from 340-25-455(41)]

**Emission Standards and Procedural Requirements for Asbestos**  
**340--~~25-465~~32-5600**

- (1) Emission standard for asbestos mills. No person shall cause to be discharged into the atmosphere any visible emissions from any asbestos milling operation, including fugitive emissions, except as provided under OAR 340--~~25-468~~32-5640(14) Air Cleaning. For purposes of this rule, the presence of uncombined water in the emission plume shall not be cause for failure to meet the visible emission requirement. Outside storage of asbestos materials is not considered a part of an asbestos mill. Each owner or operator of an asbestos mill shall meet the following requirements:
- (a) Monitor each potential source of asbestos emissions from any part of the mill facility, including air cleaning devices, process equipment, and buildings that house equipment for material processing and handling, at least once each day, during daylight hours, for visible emissions to the outside air during periods of operations. The monitoring shall be by visual observation of at least 15 seconds duration per source of emissions.
  - (b) Inspect each air cleaning device at least once each week for proper operation and for changes that signal the potential for malfunction including, to the maximum extent possible without dismantling other than opening the device, the presence of tears, holes, and abrasions in filter bags and for dust deposits on the clean side of bags. For air cleaning devices that cannot be inspected on a weekly basis according to this subsection, submit to the Department, revise as necessary, and implement a written maintenance plan to include, at a minimum, the following:
    - (A) Maintenance schedule.
    - (B) Recordkeeping plan.
  - (c) Maintain records of the results of visible emissions monitoring and air cleaning device inspections using a format approved by the Department which includes the following:
    - (A) Date and time of each inspection.
    - (B) Presence or absence of visible emissions.
    - (C) Condition of fabric filters, including presence of any tears, holes, and abrasions.
    - (D) Presence of dust deposits on clean side of fabric filters.
    - (E) Brief description of corrective actions taken, including date and time.
    - (F) Daily hours of operation for each air cleaning

device.

- (d) Furnish upon request, and make available at the affected facility during normal business hours for inspection by the Department, all records required under this section.
  - (e) Retain a copy of all monitoring and inspection records for at least two years.
  - (f) Submit a copy of visible emission monitoring records to the Department quarterly. The quarterly reports shall be postmarked by the 30th day following the end of the calendar quarter.
  - (g) Asbestos-containing waste material produced by any asbestos milling operation will be disposed of according to OAR 340-~~25-469~~32-5650.
- (2) Roadways and Parking Lots. No person may construct or maintain a roadway with asbestos tailings or asbestos-containing waste material on that roadway, unless (for asbestos tailings):
- (a) It is a temporary roadway on an area of asbestos ore deposits (asbestos mine); or
  - (b) It is a temporary roadway at an active asbestos mill site and is encapsulated with a resinous or bituminous binder. The encapsulated road surface must be maintained at a minimum frequency of once per year to prevent dust emissions; or
  - (c) It is encapsulated in asphalt concrete meeting the specifications contained in section 401 of Standard Specifications for Construction of Roads and Bridges on Federal Highway Projects, FP-85, 1985, or their equivalent.
- (3) Manufacturing. No person shall cause to be discharged into the atmosphere any visible emissions, except as provided in OAR 340-~~25-468~~32-5640 (14) ~~[- Air Cleaning]~~, from any building or structure in which manufacturing operations utilizing commercial asbestos are conducted, or directly from any such manufacturing operations if they are conducted outside buildings or structures, or from any other fugitive emissions. All asbestos-containing waste material produced by any manufacturing operation shall be disposed of according to OAR 340-~~25-469~~32-5650. Visible emissions from boilers or other points not producing emissions directly from the manufacturing operation; and having no possible asbestos material in the exhaust gases, shall not be considered for purposes of this rule. The presence of uncombined water in the exhaust plume shall not be cause for failure to meet the visible emission requirements.
- (a) Applicability. Manufacturing operations considered for purposes of this rule are as follows:
    - (A) The manufacture of cloth, cord, wicks, tubing, tape, twine, rope, thread, yarn, roving, lap, or other textile materials.
    - (B) The manufacture of cement products.

- (C) The manufacture of fire proofing and insulating materials.
  - (D) The manufacture of friction products.
  - (E) The manufacture of paper, millboard, and felt.
  - (F) The manufacture of floor tile.
  - (G) The manufacture of paints, coatings, caulks, adhesives, or sealants.
  - (H) The manufacture of plastics and rubber materials.
  - (I) The manufacture of chlorine, using asbestos diaphragm technology.
  - (J) The manufacture of shotgun shell wads.
  - (K) The manufacture of asphalt concrete.
  - (L) Any other manufacturing operation which results or may result in the release of asbestos material to the ambient air.
- (b) Monitor each potential source of asbestos emissions from any part of the manufacturing facility, including air cleaning devices, process equipment, and buildings housing material processing and handling equipment, at least once each day during daylight hours for visible emissions to the outside air during periods of operation. The monitoring shall be visual observation of at least 15 seconds.
  - (c) Inspect each air cleaning device at least once each week for proper operation and for changes that signal the potential for malfunctions, including, to the maximum extent possible without dismantling other than opening the device, the presence of tears, holes, and abrasions in filter bags and for dust deposits on the clean side of bags. For air cleaning devices that cannot be inspected on a weekly basis according to this subsection, submit to the Department, revise as necessary, and implement a written maintenance plan to include, at a minimum, the following:
    - (A) Maintenance schedule.
    - (B) Recordkeeping plan.
  - (d) Maintain records of the results of visible emission monitoring and air cleaning device inspections using a format approved by the Department which includes the following:
    - (A) Date and time of each inspection.
    - (B) Presence or absence of visible emissions.
    - (C) Condition of fabric filters, including presence of any tears, holes and abrasions.
    - (D) Presence of dust deposits on clean side of fabric filters.
    - (E) Brief description of corrective actions taken, including date and time.
    - (F) Daily hours of operation for each air cleaning device.
  - (e) Furnish upon request, and make available at the affected facility during normal business hours for

- inspection by the Department, all records required under this section.
- (f) Retain a copy of all monitoring and inspection records for at least two years.
  - (g) Submit quarterly a copy of the visible emission monitoring records to the Department if visible emissions occurred during the report period. Quarterly reports shall be postmarked by the 30th day following the end of the calendar quarter.
  - (h) Asbestos-containing waste material produced by any asbestos milling operation shall be disposed of according to OAR 340-~~25-469~~32-5650.

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 96, f. 9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82; AQ 11-1992, f. & ef. 10-7-91; AQ 1-1993, f. & ef. 3-9-93 (Renumbered from OAR 340-25-465)

340-32-5610 [Reserved]

**Asbestos Abatement Projects**

~~340-25-466~~32-5620

- (1) Any person who conducts an asbestos abatement project shall comply with OAR 340-~~25-467~~32-5630 and ~~OAR~~ 340-~~25-468~~32-5640 (1) through (11). The following asbestos abatement projects are exempt from OAR 3-~~8~~40-~~25-467~~32-5630 and ~~OAR~~ 340-~~25-468~~32-5640 (1) through (11):
  - (a) Asbestos abatement conducted in a private residence which is occupied by the owner and the owner-occupant performs the asbestos abatement.
  - (b) Removal of nonfriable asbestos-containing materials that are not shattered, crumbled, pulverized or reduced to dust until disposed of in an authorized disposal site. This exemption shall end whenever the asbestos-containing material becomes friable and releases asbestos fibers into the environment.
  - (c) Removal of less than three square feet or three linear feet of asbestos-containing material provided that the removal of asbestos is not the primary objective and methods of removal are in compliance with OAR 437 Division 3 "Construction" (29 CFR 1926.58 Appendix G). An asbestos abatement project shall not be subdivided into smaller sized units in order to qualify for this exemption.
  - (d) Removal of asbestos-containing materials which are sealed from the atmosphere by a rigid casing, provided that the casing is not broken or otherwise altered such that asbestos fibers could be released during removal, handling, and transport to an authorized disposal site.
- (2) Open storage of friable asbestos-containing material or asbestos-containing waste material is prohibited.
- (3) Open accumulation of friable asbestos-containing material or



asbestos-containing waste material is prohibited.

NOTE: The requirements and jurisdiction of the Department of Insurance and Finance, Oregon Occupational Safety and Health Division and any other state agency are not affected by OAR 340-~~{25-450}~~32-5500 through 340-~~{25-485}~~32-5650.

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: AQ 11-1992, f. & ef. 10-7-91; AQ 1-1993, f. & ef. 3-9-93

(Renumbered from 340-25-466)

### Asbestos Abatement Notifications Requirements

~~340-25-467~~32-5630 Written notification of any asbestos abatement project shall be provided to the Department on a Department form. The notification must be submitted by the facility owner or operator or by the contractor in accordance with one of the procedures specified in section (1) or (2) of this rule except as provided in sections (4), (5) and (6).

- (1) Submit the notifications as specified in subsection (c) ~~below~~ of this section and the project notification fee to the Department at least ten days before beginning any asbestos abatement project.
  - (a) The project notification fee shall be:
    - (A) \$25 for each small-scale asbestos abatement project except for small-scale projects in residential buildings described in ~~{OAR 340-25-467}~~ section (4) of this rule.
    - (B) \$50 for each project greater than a small-scale asbestos abatement project and less than 260 linear feet or 160 square feet.
    - (C) \$200 for each project greater than 260 linear feet or 160 square feet, and less than 2,600 linear feet or 1,600 square feet.
    - (D) \$500 for each project greater than 2,600 linear feet or 1,600 square feet, and less than 26,000 linear feet or 16,000 square feet.
    - (E) \$750 for each project greater than 26,000 linear feet or 16,000 square feet, and less than 260,000 linear feet or 160,000 square feet.
    - (F) \$1,000 for each project greater than 260,000 linear feet or 160,000 square feet.
  - (b) Project notification fees shall be payable with the completed project notification form. No notification will be considered to have occurred until the notification fee is submitted.
  - (c) The ten day notification requirement in section (1) above ~~of this rule~~ may be temporarily waived in emergencies which directly affect human life, health,

and property. This includes:

- (A) Emergencies where there is an imminent threat of loss of life or severe injury; or
  - (B) Emergencies where the public is exposed to airborne asbestos fibers; or
  - (C) Emergencies where significant property damage will occur if repairs are not made.
- (d) The ten day notification requirement in section (1) of this rule~~above~~ may be temporarily waived for asbestos abatement projects which were not planned, resulted from unexpected events, and which if not immediately performed will cause damage to equipment or impose unreasonable financial burden. This includes the non-routine failure of equipment.
- (e) In either subsection (c) or (d) of this section~~above~~ persons responsible for such asbestos abatement projects shall notify the Department by telephone prior to commencing work, or by 9 am of the next working day if the work was performed on a weekend or holiday. In any case notification as specified in section (3) of this rule~~below~~ and the appropriate fee shall be submitted to the Department within three days of commencing emergency or unexpected event asbestos abatement projects.
- (f) The Department shall be notified prior to any changes in the scheduled starting or completion dates or other substantial changes or the notification will be void.
- (g) If an asbestos project, equal to or greater than 2,600 linear feet or 1,600 square feet continues for more than one year, a new notification and fee shall be submitted annually thereafter until the project is complete.
- (2) For small-scale asbestos abatement projects conducted at one or more facilities by a single contractor or a single facility owner with centrally controlled asbestos operations and maintenance the notification may be submitted as follows:
- (a) Establish eligibility for use of this notification procedure with the Department prior to use;
  - (b) Maintain on file with the Department a general asbestos abatement plan. The plan shall contain the information specified in subsections (3)(a) through (3)(i) of this rule to the extent possible;
  - (c) Provide to the Department a summary report of all small-scale asbestos abatement projects conducted in the previous three months by the 15th day of the month following the end of the calendar quarter. The summary report shall include the information specified in subsections (3)(i) through (3)(m) of this rule for each project, a description of any significant variations from the general asbestos abatement plan; and a description of asbestos abatement projects anticipated

- for the next quarter;
- (d) Provide to the Department, upon request, a list of asbestos abatement projects which are scheduled or are being conducted at the time of the request;
  - (e) Submit a project notification fee of \$200 per year prior to use of this notification procedure and annually thereafter while this procedure is in use;
  - (f) Failure to provide payment for use of this notification procedure shall void the general asbestos abatement plan and each subsequent abatement project shall be individually assessed a project notification fee.
- (3) The following information shall be provided for each notification:
- (a) Name and address of person conducting asbestos abatement.
  - (b) Contractor's Oregon asbestos abatement license number, if applicable, and certification number of the supervisor for full-scale asbestos abatement or certification number of the trained worker for a project which does not have a certified supervisor.
  - (c) Method of asbestos abatement to be employed.
  - (d) Procedures to be employed to insure compliance with OAR 340-~~{25-468}~~32-5640 and 340-~~{25-469}~~32-5650.
  - (e) Names, addresses, and phone numbers of waste transporters.
  - (f) Name and address or location of the waste disposal site where the asbestos-containing waste material will be deposited.
  - (g) Description of asbestos disposal procedure.
  - (h) Description of building, structure, facility, installation, vehicle, or vessel to be demolished or renovated, including:
    - (A) The age, present and prior use of the facility;
    - (B) Address or location where the asbestos abatement project is to be accomplished.
  - (i) Facility owner's or operator's name, address and phone number.
  - (j) Scheduled starting and completion dates of asbestos abatement work.
  - (k) Description of the asbestos type, approximate asbestos content (percent), and location of the asbestos-containing material.
  - (l) Amount of asbestos to be abated: linear feet, square feet, thickness.
  - (m) For facilities described in OAR 340-~~{25-468}~~32-5640 (5) provide the name, title and authority of the State or local government official who ordered the demolition, date the order was issued, and the date demolition is to begin.
  - (n) Any other information requested on the Department form.
- (4) No project notification fee shall be assessed for asbestos abatement projects conducted in the following residential

buildings: site-built homes, modular homes constructed off site, condominium units, mobile homes, and duplexes or other multi-unit residential buildings consisting of four units or less. Project notification for a full-scale asbestos abatement project~~[-, as defined in OAR 340-33-020(14),]~~ in any of these residential buildings shall otherwise be in accordance with section (1) of this rule. Project notification for a small-scale asbestos abatement project~~[-, as defined in OAR 340-33-020(17),]~~ in any of these residential buildings is not required.

- (5) The project notification fees specified in this section shall be increased by 50% when an asbestos abatement project is commenced without filing of a project notification and/or submittal of a notification fee or when notification of less than ten days is provided under subsection (1)(c) of this rule.
- (6) The Director may waive part or all of a project notification fee. Requests for waiver of fees shall be made in writing to the Director, on a case-by-case basis, and be based upon financial hardship. Applicants for waivers must describe the reason for the request and certify financial hardship.
- (7) Pursuant to ORS 468A.135, a regional authority may adopt project notification fees for asbestos abatement projects in different amounts than are set forth in this rule. The fees shall be based upon the costs of the regional authority in carrying out the delegated asbestos program. The regional authority may collect, retain, and expend such project notification fees for asbestos abatement projects within its jurisdiction.

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: AQ 11-1992, f. & ef. 10-7-91; AQ 1-1993, f. & ef. 3-9-93  
(Renumbered from OAR 340-25-467)

#### Asbestos Abatement Work Practices and Procedures

~~340-[25-468]~~32-5640 The following procedures shall be employed during an asbestos abatement project to prevent emissions of particulate asbestos material into the ambient air:

- (1) Remove asbestos-containing materials before any wrecking or dismantling that would break up the materials or preclude access to the materials for subsequent removal. However, asbestos-containing materials need not be removed before demolition if:
  - (a) They are on a facility component that is encased in concrete or other similar material;
  - (b) They were not discovered before demolition and cannot be removed because of unsafe conditions as a result of the demolition. Upon discovery the owner or operator performing the demolition shall:
    - (A) Stop demolition work immediately.
    - (B) Notify the Department immediately of the occurrence.

- (C) Keep the exposed asbestos-containing materials and any asbestos-contaminated waste material adequately wet at all times until a licensed asbestos abatement contractor begins removal activities.
  - (D) Have the licensed asbestos abatement contractor remove and dispose of the asbestos-containing waste material.
- (c) These materials are adequately wetted whenever exposed during demolition.
- (2) Asbestos-containing materials shall be adequately wetted when they are being removed. In renovation, maintenance, repair, and construction operations, where wetting would unavoidably damage equipment or is incompatible with specialized work practices, or presents a safety hazard, adequate wetting is not required if the owner or operator:
- (a) Obtains prior written approval from the Department for dry removal of asbestos-containing material;
  - (b) Keeps a copy of the Department's written approval available for inspection at the work site;
  - (c) Adequately wraps or encloses any asbestos-containing material during handling to avoid releasing fibers;
  - (d) Uses a local exhaust ventilation and collection system designed and operated to capture the particulate asbestos material produced by the asbestos abatement project.
- (3) When a facility component covered or coated with asbestos-containing materials is being taken out of the facility as units or in sections:
- (a) Adequately wet any asbestos-containing materials exposed during cutting or disjuncting operation;
  - (b) Carefully lower the units or sections to ground level, not dropping them or throwing them;
  - (c) Asbestos-containing materials do not need to be removed from large facility components such as reactor vessels, large tanks, steam generators, but excluding beams if the following requirements are met:
    - (A) The component is removed, transported, stored, disposed of, or reused without disturbing or damaging the regulated asbestos-containing material; and
    - (B) The component is encased in leak-tight wrapping; and
    - (C) The leak-tight wrapping is labeled according to OAR 340-~~25-469~~32-5650(2)(b) during all loading and unloading operations and during storage.
- (4) For asbestos-containing materials being removed or stripped:
- (a) Adequately wet the materials to ensure that they remain wet until they are disposed of in accordance with OAR 340-~~25-469~~32-5650;
  - (b) Carefully lower the materials to the floor, not dropping or throwing them;

- (c) Transport the materials to the ground via dust-tight chutes or containers if they have been removed or stripped above ground level and were not removed as units or in sections.
- (5) If a facility is being demolished under an order of the State or a local governmental agency, issued because the facility is structurally unsound and in danger of imminent collapse, the requirements of sections (1), (2), (3), (4), and (6) of this rule shall not apply, provided that the portion of the facility that contains asbestos-containing materials is adequately wetted during the wrecking operation.
- (6) Before a facility is demolished by intentional burning, all asbestos-containing material shall be removed and disposed of in accordance with OAR 340-~~25-466~~32-5610 through ~~469~~340-32-5650.
- (7) None of the operations in sections (1) through (4) of this rule shall cause any visible emissions. Any local exhaust ventilation and collection system or other vacuuming equipment used during an asbestos abatement project, shall be equipped with a HEPA filter or other filter of equal or greater collection efficiency.
- (8) Contractors licensed and workers certified to conduct only small-scale asbestos abatement projects under OAR 340-33-040 and 340-33-050 respectively may use only those work practices and engineering controls specified by OAR 437 Division 3 "Construction" (29 CFR 1926.58 Appendix G).
- (9) The Director may approve, on a case-by-case basis, requests to use an alternative to a public health protection requirement as provided by this rule for an asbestos abatement project. The contractor or facility owner or operator must submit in advance a written description of the alternative procedure which demonstrates to the Director's satisfaction that the proposed alternative procedure provides public health protection equivalent to the protection that would be provided by the specific provision, or that such level of protection cannot be obtained for the asbestos abatement project.
- (10) Final Air Clearance Sampling Requirements apply to projects involving more than 160 square feet or 260 linear feet of asbestos-containing material. Before a containment around such an area is removed, the person(s), contractor or facility owner/operator performing the abatement shall document that the air inside the containment has no more than 0.01 fibers per cubic centimeter of air. The air sample(s) collected shall not exceed 0.01 fibers per cubic centimeter of air. The Department may grant a waiver to this section or exceptions to the following requirements upon written request.
- (a) The air clearance samples shall be performed and analyzed by a party who is National Institute of Occupational Safety and Health (NIOSH) 582 certified

- and financially independent from the person(s) conducting the asbestos abatement project.
- (b) Before final air clearance sampling is performed the following shall be completed:
- (A) All visible asbestos-containing debris shall be removed according to the requirements of this section;
  - (B) The air and surfaces within the containment shall be sprayed with an encapsulant;
  - (C) Air sampling may commence when the encapsulant has settled sufficiently so that the filter of the sample is not clogged by airborne encapsulant;
  - (D) Air filtration units shall remain on during the air monitoring period.
- (c) Air clearance sampling inside containment areas shall be aggressive and comply with the following procedures:
- (A) Immediately prior to starting the sampling pumps, direct exhaust from a minimum one horse power forced air blower against all walls, ceilings, floors, ledges, and other surfaces in the containment.
  - (B) Then place stationary fans in locations which will not interfere with air monitoring equipment and directed toward the ceiling. Use one fan per 10,000 cubic feet of room space.
  - (C) Start sampling pumps and sample an adequate volume of air to detect concentrations of 0.01 fibers of asbestos per cubic centimeter according to ~~the U.S. National Institute of Occupational Safety and Health, (NIOSH)~~ 7400 method.
  - (D) When sampling is completed turn off the pump and then the fan(s).
  - (E) As an alternative to meeting the requirements of paragraphs (A) through (D) of this subsection, air clearance sample analysis may be performed according to Transmission Electron Microscopy Analytical Methods prescribed by 40 CFR 763.99, Appendix A to Subpart E.
- (d) The person performing asbestos abatement projects requiring air clearance sampling shall submit the clearance results to the Department on a Department form. The clearance results must be received by the Department within 30 days after the completion date of the asbestos abatement project.
- (11) Related Work Practices and Controls Work practices and engineering controls employed for asbestos abatement projects by contractors and/or workers who are not otherwise subject to the requirements of the Oregon Department of Insurance and Finance, Oregon Occupational Safety and Health Division shall comply with the subsections of OAR 437 Division 3 "Construction" (29 CFR 1926.58 Appendix G) which limit the release of asbestos-containing material or

exposure of other persons. As used in this subsection the term employer shall mean the operator of the asbestos abatement project and the term employee shall mean any other person.

(12) Spraying:

- (a) No person shall cause to be discharged into the atmosphere any visible emissions from any spray-on application of materials containing more than one (1%) percent asbestos on a dry weight basis used to insulate or fireproof equipment or machinery, except as provided in ~~[Air Cleaning]~~ section (14) of this rule. Spray-on materials used to insulate or fireproof buildings, structures, pipes, and conduits shall contain less than one (1%) percent asbestos on a dry weight basis. In the case of any city or area of local jurisdiction having ordinances or regulations for spray application materials more stringent than those in this section, the provisions of such ordinances or regulations shall apply.
- (b) Twenty days before any person sprays asbestos materials to insulate or fireproof buildings, structures, pipes, conduits, equipment, or machinery, that person shall notify the Department in writing before the spraying operation begins. The notification shall contain the following:
- (A) Name and address of person intending to conduct the spraying operation.
  - (B) Address or location of the spraying operation.
  - (C) The name and address of the owner of the facility being sprayed.
- (c) The spray-on application of materials in which the asbestos fibers are encapsulated with a bituminous or resinous binder during spraying and which are not friable after drying is exempted from the requirements of subsections (8)(a) and (b) of this rule.
- (13) Options for air cleaning. Rather than meet the no visible emissions requirements of OAR 340-~~25-465~~32-5600(1) and (3), owners and operators may elect to use methods specified in section (14) of this rule.
- (14) Air cleaning. All persons electing to use air cleaning methods rather than comply with the no visible emission requirements ~~must~~ shall meet one of the provisions of subsections (a) through (d) and all of the requirements specified subsections (e), (f) and (g) ~~below~~ of this section:
- (a) Fabric filter collection devices must be used, except as provided in subsections (b) and (c) of this section. Such devices must be operated at a pressure drop of no more than four inches (10.16 cm) water gauge as measured across the filter fabric. The air flow permeability, as determined by ASTM Method D737-75, must not exceed 30 ft.<sup>3</sup>/min./ft.<sup>2</sup> (9 m<sup>3</sup>/min./m<sup>2</sup>) for



woven fabrics or 35 ft.<sup>3</sup>/min.ft.<sup>2</sup> (11 m<sup>3</sup>/min./m<sup>2</sup>) for felted fabrics with the exception that airflow permeability of 40 ft.<sup>3</sup>/min./ft.<sup>2</sup> (12 m<sup>3</sup>/min./m<sup>2</sup>) for woven and 45 ft.<sup>3</sup>/min./ft.<sup>2</sup> (14 m<sup>3</sup>/min./m<sup>2</sup>) for felted fabrics shall be allowed for filtering air emissions from asbestos ore dryers. Each square yard of felted fabric must weigh at least 14 ounces (475 grams per square meter) and be at least one-sixteenth (1/16) inch (1.6mm) thick throughout. Any synthetic fabrics used must not contain fill yarn other than that which is spun.

- (b) If the use of fabric filters creates a fire or explosion hazard, the Department may authorize the use of wet collectors designed to operate with a unit contacting energy of at least 40 inches (101.6 cm) of water gauge pressure.
  - (c) If High Efficiency Particulate Air (HEPA) filters are used to control emissions the certified efficiency shall be at least 99.97 percent for particles 0.3 microns or greater.
  - (d) The Department may authorize the use of filtering equipment other than that described in subsections ~~[(14)]~~(a), (b) , or (c) of this ~~rule~~ section if such filtering equipment is satisfactorily demonstrated to provide filtering of asbestos material equivalent to that of the described equipment.
  - (e) All air cleaning devices authorized by this section must be properly installed, operated, and maintained. Devices to bypass the air cleaning equipment may be used only during upset and emergency conditions, and then only for such time as is necessary to shut down the operation generating the particulate asbestos material.
  - (f) For fabric filters collection devices installed after January 10, 1989, provide for easy inspection for faulty bags.
- (15) Fabricating. No person shall cause to be discharged into the atmosphere any visible emissions including fugitive emissions, except as provided in ~~[Air Cleaning]~~ section (14) of this rule, from any fabricating operations including the following:
- (a) Applicability. This section applies to the following fabricating operations using commercial asbestos:
    - (A) The fabrication of cement building products.
    - (B) The fabrication of friction products, except those operations that primarily install asbestos friction materials on motor vehicles.
    - (C) The fabrication of cement or silicate board for ventilation hoods; ovens; electrical panels; laboratory furniture; bulkheads, partitions and ceilings for marine construction; and flow control devices for the molten metal industry.

- (b) Monitor each potential source of asbestos emissions from any part of the fabricating facility, including air cleaning devices, process equipment for material processing and handling, at least once each day, during daylight hours, for visible emissions to the outside air during periods of operation. The monitoring shall be by visual observation of at least 15 seconds duration per source of emissions.
  - (c) Inspect each air cleaning device at least once each week for proper operation and for changes that signal the potential for malfunctions, including to the maximum extent possible without dismantling other than opening the device, the presence of tears, holes, and abrasions in filter bags and for dust deposits on the clean side of bags. For air cleaning devices that cannot be inspected on a weekly basis according to this paragraph, submit to the Department, revise as necessary, and implement a written maintenance plan to include, at a minimum, the following:
    - (A) Maintenance schedule.
    - (B) Recordkeeping plan.
  - (d) Maintain records of the results of visible emission monitoring and air cleaning device inspections using a format approved by the Department which includes the following:
    - (A) Date and time of each inspection
    - (B) Presence or absence of visible emissions.
    - (C) Condition of fabric filters, including presence of any tears, holes, and abrasions.
    - (D) Presence of dust deposits on clean side of fabric filters.
    - (E) Brief description of corrective actions taken, including date and time.
    - (F) Daily hours of operation for each air cleaning device.
  - (e) Furnish upon request and make available at the affected facility during normal business hours for inspection by the Department, all records required under this section.
  - (f) Retain a copy of all monitoring and inspection records for at least two years.
  - (g) Submit a copy of the visible emission monitoring records to the Department quarterly. The quarterly report shall be postmarked by the 30th day following the end of the calendar quarter.
- (16) Insulation: Molded insulating materials which are friable and wet-applied insulating materials which are friable after drying, installed after October 21, 1982, shall contain no commercial asbestos. The provisions of this section do not apply to insulating materials which are spray applied; ~~such materials are regulated under~~ pursuant to section (12) of this rule.

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: AQ 11-1992, f. & ef. 10-7-91; AQ 1-1993, f. & ef. 3-9-93  
(Renumbered from OAR 340-25-468)

#### Asbestos Disposal Requirements

340-~~[25-469]~~32-5650 Work practices and procedures for packaging, storage, transport, and disposal of asbestos-containing waste material: The owner or operator of any source covered under the provisions of OAR 340-~~[25-465]~~32-5600 (3), 340-~~[25-466]~~32-5620 (1), or 340-~~[25-468]~~32-5640 (12) and section (15) of this rule or any other source of friable asbestos-containing waste material shall meet the following standards:

- (1) There shall be no visible emissions to the atmosphere, except as provided in section (12) of this ~~section~~rule, during the collection; processing, including incineration; packaging; transporting; or deposition of any asbestos-containing waste material which is generated by such source.
- (2) All asbestos-containing waste materials shall be adequately wetted to ensure that they remain wet until disposed of, then:
  - (a) Processed into nonfriable pellets or other shapes; or
  - (b) Packaged in leak-tight containers such as two plastic bags each with a minimum thickness of 6 mill., or fiber or metal drum. Containers are to be labeled as follows:
    - (A) The name of the asbestos waste generator and the location at which the waste was generated; and
    - (B) A warning label that states:

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

Alternatively, warning labels specified by 29 CFR 1910.1001 (7/1/88) may be used.

- (c) Where the asbestos-containing materials are not removed from a facility prior to demolition as described in OAR 340-~~[25-468]~~32-5640 (15), adequately wet asbestos-containing waste material at all times after demolition and keep wet during handling and loading for transport to a disposal site. Such asbestos-containing waste materials, shall be transported in lined and covered containers for bulk disposal.
- (4) The interim storage of asbestos-containing waste material shall protect the waste from dispersal into the environment

and provide physical security from tampering by unauthorized persons. The interim storage of asbestos-containing waste material is the sole responsibility of the contractor, owner or operator performing the asbestos abatement project.

- (5) All asbestos-containing waste material shall be deposited as soon as possible by the asbestos waste generator at:
  - (a) A waste disposal site authorized by the Department and operated in accordance with ~~{the provisions of }~~this rule; or
  - (b) A Department approved site that converts asbestos-containing waste material into nonasbestos (asbestos-free) material according to the provisions of 40 CFR 61.155 Standard for Operations that convert asbestos-containing waste material into nonasbestos (asbestos-free) material.
- (6) Persons disposing of asbestos-containing waste material shall notify the landfill operator of the type and volume of the waste material and obtain the approval of the landfill operator prior to bringing the waste to the disposal site.
- (7) For each waste shipment the following information shall be recorded on a Department form:
  - (a) Waste Generation
    - (A) The name, address, and telephone number of the asbestos waste generator.
    - (B) The number and type of asbestos-containing waste material containers and volume in cubic yards.
    - (C) A certification that the contents of this consignment are carefully and accurately described by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highways according to applicable regulations.
  - (b) Waste Transportation
    - (A) The date transported.
    - (B) The name, address, and telephone number of the transporter(s).
  - (c) Waste Disposal
    - (A) The name and telephone number of the disposal site operator.
    - (B) The name and address or location of the waste disposal site.
    - (C) The quantity of the asbestos-containing waste material in cubic yards.
    - (D) The presence of improperly enclosed or uncovered waste, or any asbestos-containing waste material not sealed in leak-tight containers.
    - (E) The date asbestos-containing waste is received at disposal site.
- (8) For the transportation of asbestos-containing waste material:
  - (a) The asbestos waste generator shall:
    - (A) Maintain the asbestos waste shipment records and

ensure that all the information requested on the Department form regarding waste generation and transportation has been supplied.

- (B) Limit access into loading and unloading area to authorized personnel.
- (C) Mark vehicles, while loading and unloading asbestos-containing waste, with signs (20 in. x 14 in.) that state:

**DANGER**  
**ASBESTOS DUST HAZARD**  
**CANCER AND LUNG DISEASE HAZARD**  
**Authorized Personnel Only**

Alternatively, language that conforms to the requirements of 29 CFR 1910.1001 (7/1/88) may be used.

- (b) The waste transporter shall:
  - (A) Immediately notify the landfill operator upon arrival of the waste at the disposal site.
  - (B) Provide a copy of the asbestos waste shipment record to the disposal site owners or operators when the asbestos-containing waste material is delivered to the disposal site.
- (9) After initial transport of asbestos-containing waste material the asbestos waste generator shall:
  - (a) Receive a copy of the completed asbestos waste shipment record within 35 days, or determine the status of the waste shipment. A completed asbestos waste shipment record will include the signature of the owner or operator of the designated disposal site.
  - (b) Have a copy of the completed asbestos waste shipment record within 45 days, or submit to the Department a written report including:
    - (A) A copy of the asbestos waste shipment record for which a confirmation of delivery was not received; and
    - (B) A cover letter signed by the asbestos waste generator explaining the efforts taken to locate the asbestos waste shipment and the results of those efforts.
  - (c) Keep asbestos waste shipment records, including a copy signed by the owner or operator of the designated waste disposal site, for at least three years. Make all disposal records available upon request to the Department. For an asbestos abatement project conducted by a contractor licensed under OAR 340-33-040, the records shall be retained by the licensed contractor. For any other asbestos abatement project, the records shall be retained by the facility owner.
- (10) Each owner or operator of an active asbestos-containing waste disposal site shall meet the following standards:

- (a) For all asbestos-containing waste material received:
- (A) Ensure that off-loading of asbestos-containing waste material is done under the direction and supervision of the landfill operator or their authorized agent and accomplished in a manner that prevents the leak-tight transfer containers from rupturing and prevents visible emissions to the air.
  - (B) Ensure that off-loading of asbestos-containing waste material occurs at the immediate location where the waste is to be buried and restrict public access to off-loading area until waste is covered in accordance with paragraph (I), ~~below~~ of this subsection.
  - (C) Maintain asbestos waste shipment records and ensure that all information requested on the Department form regarding waste disposal has been supplied.
  - (D) Retain a copy of asbestos waste shipment records for at least three years.
  - (E) Immediately notify the Department by telephone, followed by a written report to the Department the following working day, of the presence of improperly enclosed or uncovered waste. Submit a copy of the asbestos waste shipment record along with the report.
  - (F) As soon as possible and no longer than 30 days after receipt of the waste send a copy of the signed asbestos waste shipment record to the asbestos waste generator.
  - (G) Upon discovering a discrepancy between the quantity of waste designated on the asbestos waste shipment records and the quantity actually received, attempt to reconcile the discrepancy with the asbestos waste generator. Report in writing to the Department within the 15th day after receiving the waste any discrepancy between the quantity of waste designated on the asbestos waste shipment records and the quantity actually received which cannot be reconciled between the asbestos waste generator and the waste disposal site. Describe the discrepancy and attempts to reconcile it, and submit a copy of the asbestos waste shipment record along with the report. Identify the Department assigned asbestos project number in the discrepancy report.
  - (H) Select the waste burial site in an area of minimal work activity that is not subject to future excavation.
  - (I) Cover all asbestos-containing waste material deposited at the disposal site with at least 12 inches of soil or six inches of soil plus 12

- inches of other waste before compacting equipment runs over it but not later than the end of the operating day.
- (b) Maintain, until closure, record of the location, depth and area, and quantity in cubic yards of asbestos-containing waste material within the disposal site on a map or diagram of the disposal area.
  - (c) Excavation or disturbance of asbestos-containing waste material, that has been deposited at a waste disposal site and is covered, shall be considered an asbestos abatement project. The notification for any such project shall be submitted as specified in OAR 340-~~425-467~~32-5630 but modified as follows:
    - (A) Submit the project notification and project notification fee to the Department at least 45 days before beginning any excavation or disturbance of asbestos-containing waste disposal site.
    - (B) Reason for disturbing the waste.
    - (C) Procedures to be used to control emissions during the excavation, storage, transport and ultimate disposal of the excavated asbestos-containing waste material. If deemed necessary, the Department may require changes in the emission control procedures to be used.
    - (D) Location of any temporary storage site and the final disposal site.
  - (d) Upon closure of an active asbestos-containing waste disposal site each owner or operator shall:
    - (A) Comply with all the provisions for inactive asbestos-containing waste disposal sites.
    - (B) Submit to the department a copy of records of asbestos waste disposal locations and quantities.
    - (C) Furnish upon request, and make available during normal business hours for inspection by the Department, all records required under this section.
- (11) The owner or operator of an inactive asbestos-containing waste disposal site shall meet the following standards:
- (a) Insure that a cover of at least two feet of soil or one foot of soil plus one foot of other waste be maintained.
  - (b) Grow and maintain a cover of vegetation on the area to prevent erosion of the non asbestos-containing cover of soil or other waste materials or in desert areas where vegetation would be difficult to maintain, a layer of at least three inches of well-graded, nonasbestos crushed rock may be placed and maintained on top of the final cover instead of vegetation.
  - (c) For inactive asbestos waste disposal sites for asbestos-containing tailings, a resinous or petroleum-based dust suppression agent that effectively binds

- dust to control surface air emissions may be used and maintained to achieve the requirements of subsections (a) and (b) of this section, provided prior written approval of the Department is obtained.
- (d) Excavation or disturbance at any inactive asbestos-containing waste disposal site shall be considered an asbestos abatement project. The notification for any such project shall be submitted as specified in OAR 340-~~25-467~~32-5630, but modified as follows:
- (A) Submit the project notification and project notification fee to the Department at least 45 days before beginning any excavation or disturbance of asbestos-containing waste disposal site.
  - (B) Reason for disturbing the waste.
  - (C) Procedures to be used to control emissions during the excavation, storage, transport and ultimate disposal of the excavated asbestos-containing waste material. If deemed necessary, the Department may require changes in the emission control procedures to be used.
  - (D) Location of any temporary storage site and the final disposal site.
- (e) Within 60 days of a site becoming inactive, request in writing that the Commission issue an environmental hazard notice for the site. This environmental hazard notice will in perpetuity notify any potential purchaser of the property that:
- (A) The land has been used for the disposal of asbestos-containing waste material; and
  - (B) That the survey plot and record of the location and quantity of asbestos-containing waste disposed of within the disposal site required for active asbestos disposal sites have been filed with the Department; and
  - (C) The site is subject to OAR 340-~~25-465~~32-5590 through ~~OAR~~ 340-~~25-469~~32-5650.
- (12) Any waste which contains nonfriable asbestos-containing material not subject to this rule shall be handled and disposed of using methods that will prevent the release of airborne asbestos-containing material.
- (13) Rather than meet the requirements of this rule, an owner or operator may elect to use an alternative storage, transport, or disposal method which has received prior written approval by the Department.

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: AQ 11-1992, f. & ef. 10-7-91; AQ 1-1993, f. & ef. 3-9-93



(Renumbered from OAR 340-25-469)

**AMENDMENTS TO DIVISION 33<sup>1</sup>**

**LICENSING AND CERTIFICATION  
ASBESTOS REQUIREMENTS**

**Authority, Purpose, and Scope**

**340-33-010**

- (1) Authority. This Division is promulgated in accordance with and under the authority of ORS 468A.745.
- (2) Purpose. The purpose of this Division is to provide reasonable standards for:
  - (a) Training and licensing of asbestos abatement project contractors;
  - (b) Training and certification of asbestos abatement project supervisors and workers;
  - (c) Accreditation of providers of training of asbestos contractors, supervisors, and workers;
  - (d) Administration and enforcement of this Division by the Department.
- (3) Scope:
  - (a) This Division is applicable to all work, including demolition, renovation, repair, construction, or maintenance activity of any public or private facility that involves the repair, enclosure, encapsulation, removal, salvage, handling, or disposal of any material which could potentially release asbestos fibers into the air; except as provided in subsections (b) and (c) of this section;
  - (b) This Division does not apply to an asbestos abatement project which is exempt from OAR 340-~~25-466~~32-5620(1);
  - (c) This Division does not apply to persons performing vehicle brake and clutch maintenance or repair;
  - (d) Full-scale asbestos abatement projects are differentiated from smaller projects. Small-scale asbestos abatement projects as defined by OAR 340-33-020(17) are limited by job size and include projects:
    - (A) Where the primary intent is to disturb the asbestos-containing material and prescribed work practices are used; and
    - (B) Where the primary intent is not to disturb the asbestos-containing material.
  - (e) This Division provides training, licensing, and certification standards for implementation of OAR 340-~~25-465~~32-5590 through ~~469~~340-32-5650, Emission Standards and Procedural Requirements for Asbestos.

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 10-1988, f. 5-19-88, cert. ef. 5-19-88 (and corrected 6-3-88); AQ 13-1992, f. & ef. 10-7-91;

AQ 1-1993, f. & ef. 3-9-93

**General Provisions**

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1. Only amended and new rules are printed.

**340-33-030**

- (1) Persons engaged in the removal, encapsulation, repair, or enclosure of any asbestos-containing material which has the potential of releasing asbestos fibers into the air must be licensed or certified, unless exempted by OAR 340-33-010(3).
- (2) An owner or operator of a facility shall not allow any persons other than those employees of the facility owner or operator who are appropriately certified or a licensed asbestos abatement contractor to perform an asbestos abatement project in or on that facility. Facility owners and operators are not required to be licensed to perform asbestos abatement projects in or on their own facilities.
- (3) Any contractor engaged in a full-scale asbestos abatement project must be licensed by the Department under the provisions of OAR 340-33-040.
- (4) Any person acting as the supervisor of any full-scale asbestos abatement project must be certified by the Department as a Supervisor for Full-Scale Asbestos Abatement under the provisions of OAR 340-33-050.
- (5) Any worker engaged in or working on any full-scale asbestos abatement project must be certified by the Department as a Worker for Full-Scale Asbestos Abatement under the provisions of OAR 340-33-050, or as a Supervisor for Full-Scale Asbestos Abatement.
- (6) Any contractor or worker engaged in any small-scale asbestos abatement project but not licensed or certified to perform full-scale asbestos abatement projects, must be licensed or certified by the Department as a Small-Scale Asbestos Abatement Contractor or a Worker for Small-Scale Asbestos Abatement, respectively under the provisions of OAR 340-33-040 and 340-33-050.
- (7) Any provider of training which is intended to satisfy the licensing and certification training requirements of this Division must be accredited by the Department under the provisions of OAR 340-33-060.
- (8) Any person licensed, certified, or accredited by the Department under the provisions of this Division shall comply with the appropriate provisions of OAR 340-~~25-465~~32-5590 through 340-~~25-469~~32-5650 and this Division and maintain a current address on file with the Department, or be subject to suspension or revocation of license, or certification, or accreditation.
- (9) The Department may accept evidence of violations of this Division from representatives of other federal, state, or local agencies.
- (10) A regional air pollution authority which has been delegated authority under OAR 340-~~25-460(7)~~32-110(2) may inspect for and enforce against violations of licensing and certification regulations. A regional air pollution authority may not approve, deny, suspend or revoke a training provider accreditation, contractor license, or worker certification, but may refer violations to the Department and recommend denials, suspensions, or revocations.
- (11) Any person who conducts an asbestos abatement project shall insure accessibility for the Department to perform inspections.

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 10-1988, f. & cert ef. 5-19-88 (and corrected 6-3-88); DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90); AQ 13-1992, f. & ef. 10-7-91; AQ 1-1993, f. & ef. 3-9-93

## ATTACHMENT B1

### NOTICE OF PROPOSED RULEMAKING HEARING

**AGENCY:** Department of Environmental Quality, Air Quality Division

The above named agency gives notice of hearing.

**HEARING TO BE HELD:**

<b>DATE:</b>	<b>TIME:</b>	<b>LOCATION:</b>
August 16, 1993	7:00 p.m.	City Council Chambers, City Hall 6th & A Streets Grants Pass
		Blue Mountain Community College Morrow Hall, Room 130 Pendleton
August 17, 1993	7:00 p.m.	Central Oregon Community College Boyle Education Center, Room 155 Bend
		Medford City Council Chambers 411 W. 8th Street Medford
		State Office Building 800 NE Oregon Street, Room 120 Portland
August 18, 1993	7:00 p.m.	County Commission Hearing Room Court House Annex Klamath Falls

**Hearings Officers:**

Grants Pass: Andrew Ginsburg  
Klamath Falls: Andrew Ginsburg  
Pendleton: Yone McNally  
Bend: Patti Seastrom  
Medford: Jacqueline Fern  
Portland: David Collier

Pursuant to the Statutory Authority of ORS 468.020, ORS 468.035, and Chapter 468A, Oregon Laws 1991, the following action is proposed:

**ADOPT:** OAR 340-25-554, 556, 586, 606 through 609, 611 through 614, 618, 626, 653, 656, 695, 697, 707, 713, 714, 720, 723, 730, and 735.  
OAR 340-28-610 through 340-28-640.  
OAR 340-32-105, 5500 through 5630.

**AMEND:** OAR 340-12-050.  
OAR 340-20-001.  
OAR 340-20-220 through 340-20-276.  
OAR 340-25-450 through 340-25-485.  
OAR 340-25-505 through 553, 555 through 580, 587 through 605, 610, 615, 620, 625, 630 through 652, 655, 660 through 690, 701 through 706, 708, 710, 715, and 725.  
OAR 340-28-110, 600, 800, 810, 820, 1010, 1020, 1050, 1100, 1110, 1140, 1410 through 1440, 1720 through 1780, 1900, 1910, 1930 through 1980, 2000, 2120.  
OAR 340-32-110, 120, 220, 230, 240.  
OAR 340-33-010, 340-33-030

No Prior Notice Given

#### **SUMMARY:**

This rulemaking updates the Department's delegation of authority for EPA's New Source Performance Standards and National Emissions Standards for Hazardous Air Pollutants; clarifies what is required by the Highest and Best Practicable Treatment and Control Rule; and amends the New Source Review Rules to correct errors and clarify requirements. The Environmental Quality Commission may consider other related amendments.

Interested persons may comment on the proposed rules orally or in writing at the hearing. Written comments received by: August 18, 1993 at 5:00 p.m. 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:** Air Quality Division  
811 S. W. 6th Avenue  
Portland, Oregon 97204

**ATTN:** Katherine Huit

**PHONE:** (503) 229-6829 or Toll Free 1-800-452-4011

A handwritten signature in black ink, appearing to be "Katherine Huit", written over a horizontal line.

Signature

7/7/93

Date

## ATTACHMENT B2

### REVISIONS TO STATIONARY SOURCE EMISSION STANDARDS AND REQUIREMENTS

Date Issued:	July 9, 1993
Public Hearings:	August 16, 17 and 18, 1993
Comments Due:	August 18, 1993

#### WHO IS AFFECTED:

Commercial and industrial stationary sources of air pollution subject to the Highest and Best Practicable Treatment and Control Rule, New Source Performance Standards, National Emissions Standards for Hazardous Air Pollutants, and New Source Review Rules.

#### WHAT IS PROPOSED:

Update the Department's delegation of authority for EPA's New source Performance Standards and National Emissions Standards for Hazardous Air Pollutants.

Clarify what is required by the Highest and Best Practicable Treatment and Control Rule.

Amend the New Source Review Rules to correct errors and clarify requirements. The Commission may also consider other related amendments.

#### WHAT ARE THE HIGHLIGHTS:

**New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants.** The Department has partial delegation from EPA to enforce these programs. The amendments would, with a few exceptions, adopt EPA's rules by reference so that the Department can apply for full delegation of these programs. This will not add additional requirements for sources, but will enable the Department to enforce the requirements in lieu of EPA.

**Highest and Best Practicable Treatment and Control Rule.** The existing rule is broad in scope and includes general control

requirements. The proposal would clarify the requirements to be consistent with the Department's historical interpretation and statutory provisions.

**New Source Review Rules.** The proposal would amend several definitions and other rules to be consistent with federal requirements.

**HOW TO  
COMMENT:**

Public Hearings to provide information and receive public comment are scheduled as follows:

Grants Pass	August 16, 1993, 7:00 p.m. City Council Chambers, City Hall 6th and A Streets
Pendleton	August 16, 1993, 7:00 p.m. Room 130, Morrow Hall Blue Mountain Community College
Bend	August 17, 1993, 7:00 p.m. Room 155, Boyle Education Center Central Oregon Community College
Medford	August 17, 1993, 7:00 p.m. Medford City Council Chambers 411 W. 8th Street
Portland	August 17, 1993, 7:00 p.m. Room 120, 800 NE Oregon Street State Office Building
Klamath Falls	August 18, 1993, 7:00 p.m. County Commission Hearing Room Court House Annex

Written comments must be received by 5:00 p.m. on August 18, 1993 at the following address:

Department of Environmental Quality  
Air Quality Division  
811 S.W. 6th Avenue  
Portland, Oregon, 97204



A copy of the Proposed Rule may be reviewed at the above address.

A copy may be obtained from the Department by calling the Air Quality Division at 229-6829 or calling Oregon toll free 1-800-452-4011.

**WHAT IS THE  
NEXT STEP:**

The Department will evaluate comments received and will make a recommendation to the Environmental Quality Commission. Interested parties can request to be notified of the date the Commission will consider the matter by writing to the Department at the above address.

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal  
for  
Revisions to Stationary Source Emission Standards and Requirements

**Rulemaking Statements**

Pursuant to ORS 183.335(7), this statement provides information about the Environmental Quality Commission's intended action to adopt a rule.

1. Legal Authority

This proposal is to amend existing Oregon Administrative Rules to implement changes necessary to clarify the Department's policy on the application of Highest and Best Practicable Treatment, correct errors and clarify requirements of New Source Review regulations, and update the Department's delegation of authority for EPA's New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants. These amendments are proposed under the authority of ORS 468.020, 468A.010, 468A.025 and 468A.035.

2. Need for the Rule

The Department has partial delegation from EPA to enforce the New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants programs. The amendments would adopt EPA's rules by reference so that the Department can apply for full delegation of these programs.

The Highest and Best Practicable Treatment and Control rule is broad in scope and includes general control requirements. The proposal would clarify the requirements for sources and help sources in complying with these requirements.

The proposal for the New Source Review Rules would amend several definitions and other rules for consistency with federal requirements for the program in response to EPA comments and Department review. The proposal would also make several non-substantive amendments needed to

clarify requirements. The Commission may also consider other related changes.

3. Principal Documents Relied Upon in this Rulemaking

Memo from George Abel, Air & Radiation Branch, EPA to Steve Greenwood, Air Quality Division, DEQ, dated August 22, 1992.

40 CFR Part 51, Requirements for State Implementation Plans

40 CFR Part 60, Standards of Performance for New Stationary Sources

40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

**Rulemaking Proposal**  
for  
Revisions to Stationary Source Air Quality  
Emission Standards and Requirements

**Fiscal and Economic Impact Statement**

**Introduction**

This rulemaking proposal is not expected to have a significant fiscal and economic impact. The proposed rules would adopt federal requirements which already apply to business, amend existing state requirements for clarification, and make additional house-keeping (non-substantive) amendments. Because these requirements already apply for the most part, the amendments are not expected to add significant costs.

**General Public**

There would be no economic impact to the general public as a result of these proposed rules.

**Large Business**

Large business is subject to a number of requirements affected by the proposal. The federal standards adopted by reference affect large business, including the New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP). However, large business is already subject to these requirements. From the standpoint of these businesses, the amendments just change the enforcing agency from the U.S. Environmental Protection Agency (EPA) to the Department of Environmental Quality. This is not expected to have a significant economic impact on large business.

The proposal also amends a state requirement, Highest and Best Practicable Treatment and Control, which affects large business. This requirement was adopted in 1972, and applies to all emission sources and all pollutants. The proposed amendments define the requirement through more specific rules that are

generally based on the Department's historical interpretation of the rule consistent with statutory requirements. For sources not subject to other specific standards, the proposal would require Typically Achievable Control Technology (TACT) to be installed in some cases. For existing sources, TACT would normally cost the same or less than Reasonably Available Control Technology (RACT), about \$1,000 to \$5,000 per ton for volatile organic compound (VOC), for example. For new and modified sources, TACT would normally cost between RACT and Best Available Control Technology (BACT), about \$3,000 to \$10,000 per ton for VOC, for example. These costs are unchanged from the existing rule. Because the proposal generally defines the rule in the way it has been implemented, it is not expected to have a significant economic impact on large business.

Large business is also affected by amendments to the New Source Review provisions which affect major new sources and major modifications to existing sources. However, the proposed amendments clarify existing state and federal requirements and are not expected to result in significant economic impacts on large business.

### **Small Business**

Small business is subject to a number of requirements affected by the proposal. Some of the federal standards adopted by reference affect small business, including some of the New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants. Highest and Best Practicable Treatment and Control also applies to small business. Like large business, these requirements already apply to small business. Therefore, the amendments are not expected to have a significant economic impact on small business.

### **Local Governments**

Local governments that operate emission sources subject to any of these standards would be affected in the same way that business is affected. No significant economic impact on local governments is expected.

### **State Agencies**

The proposed requirements will be implemented through the Department's permit and notice of construction programs. In Lane County, the requirements will be implemented by the Lane Regional Air Pollution Authority (LRAPA). The Department and LRAPA will be responsible for administering NSPS and NESHAP requirements which were previously administered by EPA, resulting in an additional work load. However, this work load is expected to be administered within the revenue and staffing expected to implement new federal operating permit program requirements.

## **Assumptions**

This analysis assumes that sources are in compliance with existing state and federal rules. Sources which are not in compliance may be subject to additional costs due to an expected increase in compliance assurance activities under the federal operating permit program.

## ATTACHMENT B5

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal  
for  
Revisions to Stationary Source Emission Standards and Requirements

### Land Use Evaluation Statement

**1. Explain the purpose of the proposed rules.**

The Department proposes to adopt new rules and rule amendments regarding New Source Performance Standards, National Emission Standards for Hazardous Air Pollutants, Highest and Best Practicable Treatment and Control, and New Source Review. The rules would adopt EPA's rules for New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants by reference so the Department can apply for full delegation of these programs. The proposed rules would clarify the requirements of the highest and Best Practicable Treatment and Control Rule to be consistent with the Department's historical interpretation and statutory provisions. The proposal would amend definitions and other rules for New Source Review to be consistent with federal requirements for this program. The Commission may also consider other related changes.

**2. Do the proposed rules affect existing rules, programs or activities that are considered land use programs in the DEQ State Agency Coordination (SAC) Program?**

Yes X No     

**a. If yes, identify existing program/rule/activity:**

Department's stationary source permitting program.

**b. If yes, do the existing statewide goal compliance and local plan compatibility procedures adequately cover the proposed rules?**

Yes X No      (if no, explain):

Yes X No \_\_\_\_\_ (if no, explain):


The proposed rules would be implemented through the Department's existing stationary source permitting program.


c. If no, apply the following criteria to the proposed rules.

Not applicable.

3. If the proposed rules have been determined a land use program under 2. above, but are not subject to existing land use compliance and compatibility procedures, explain the new procedures the Department will use to ensure compliance and compatibility.

Not applicable.

  
\_\_\_\_\_  
Division

  
\_\_\_\_\_  
Intergovernmental Coord.

7/7/93  
Date



State of Oregon  
Department of Environmental Quality

## Memorandum

Date: September 15, 1993

**To:** Environmental Quality Commission  
**From:** Andrew Ginsburg, Hearings Officer *ADG*  
**Subject:** Hearings Report for Revisions to Stationary Source Emission Standards and Requirements.

Six hearings were held to accept testimony on proposed stationary source emission standards and requirements. The proposed rules include amendments to New Source Performance Standards, National Emission Standards for Hazardous Air Pollutants, Highest and Best Practicable Treatment and Control, and New Source Review. At several of the hearing locations, public testimony was also accepted on two separate rulemaking proposals: revisions to motor vehicle fuel specifications for oxygenated gasoline and revisions to the motor vehicle inspection program. This report includes only testimony received regarding the proposed stationary source emission standards and requirements.

On August 16, 1993 a public hearing was held in the City of Grants Pass Council Chambers, 6th and A Streets, Grants Pass. The presiding officer was Andrew Ginsburg. Two people attended and no one gave written or oral testimony on the proposed rules.

On August 16, 1993 a public hearing was held in Morrow Hall of Blue Mountain Community College in Pendleton, Oregon. The presiding officer was Yone McNally. No one attended this hearing.

On August 17, 1993 a public hearing was held in the City of Medford Council Chambers, 411 W. 8th Street, Medford, OR. The presiding officer was Jacqueline Fern. Ten people attended and two gave oral testimony on the proposed stationary source rules. Two written comments were also submitted at that time.

On August 17, 1993 a public hearing was held in the State Office Building, 800 NE Oregon Street, Room 120, Portland, OR. The presiding officer was David Collier. Nine people attended and no one gave oral or written testimony on the stationary source rulemaking package.

On August 17, 1993 a public hearing was held in the Boyle Education Center at Central Oregon Community College in Bend, Oregon. The presiding officer was Patti Seastrom. No one attended this hearing.

Memo To: Environmental Quality Commission  
Presiding Officer's Report  
August 16-18, 1993 Rulemaking Hearings  
Page 2

On August 18, 1993 a public hearing was held in the Klamath County Library, in Klamath Falls, OR. The presiding officer was Andrew Ginsburg. Five people attended and one provided oral and written testimony on the proposed stationary source rules.

People were asked to sign witness registration forms if they wished to present testimony. People were also advised that the hearing was being recorded and of the procedures to be followed. Prior to receiving testimony, the presiding officer briefly explained the specific rulemaking proposals and the reasons for the proposals. People were then called to testify in the order of receipt of witness registration forms and presented testimony as noted below. Immediately following oral testimony, the presiding officer responded to questions from the audience.

A total of 10 written comments were received by the Department prior to the end of the public comment period at 5 p.m. on August 18, 1993.

The attached Testimony References table provides list of oral and written testimony received. The attached Summary of Public Testimony provides a summary of oral and written comments made. In addition, the report provides a summary of comments that were submitted for the May 17, 1993 Federal Operating Permit Program proposal which address issues in the July 9, 1993 Stationary Source Air Quality Emission Standards and Requirements proposal. The persons who made each comment are identified by a code which is keyed to the entries in the Testimony References table.

Attachments:

- Testimony References
- Summary of Public Testimony
- Written Testimony Submitted for the Record (upon request)

### Testimony References

#### Revisions to Stationary Source Emission Standards and Requirements

<u>No.</u>	<u>Oral Testimony</u>	<u>Written Comment</u>	<u>Name and Affiliation</u>
<b>Testimony Given in Medford</b>			
M1	Yes	Yes	Wally Skyрман Patient Representative Southern Oregon Regional Board of the American Lung Association
M2	Yes	Yes	Phyllis Hughes Executive Committee Rogue Group Sierra Club
<b>Testimony Given in Klamath Falls</b>			
K1	Yes	Yes	Mavis McCormic Natural Resources League of Women Voters of Oregon
<b>Other Written Testimony Received</b>			
P1	No	Yes	Bob Palzer Sierra Club  Karyn Jones Citizens For Environmental Quality  Annette Liebe Oregon Environmental Council  Lauri Aunan OSPIRG  W. Day Morgan, PPI  Janet Neuman

<u>No.</u>	<u>Oral Testimony</u>	<u>Written Comment</u>	<u>Name and Affiliation</u>
P2	No	Yes	Douglas Morrison Environmental Counsel Northwest Pulp and Paper Association
P3	No	Yes	Michael Tanchuk Manager, Air Quality and Technical Services Reynolds Metals Company
P4	No	Yes	Kelly Champion Environmental/Safety Administrator Ogden Martin Systems of Marion, Inc.
P5	No	Yes	Steven Van Ootegham Environmental Engineer Blout, Inc.
P6	No	Yes	Valerie Madison Resident, Portland
P7	No	Yes	Candace Reich Resident, Madras
P8	No	Yes	David Bray Permit Programs Manager Environmental Protection Agency, Region X

**Testimony Received for the May 17, 1993 Title V Rulemaking Proposal  
Which is Applicable to the July 9, 1993 Rulemaking Proposal**

FOP1	No	Yes	David Bray Permit Programs Manager Environmental Protection Agency, Region X
FOP2	No	Yes	Teresa Parrone Air & Water Quality Programs Manager Tektronix
FOP3	No	Yes	Jim Whitty Associated Oregon Industries

<u>Jo.</u>	<u>Oral Testimony</u>	<u>Written Comment</u>	<u>Name and Affiliation</u>
FOP4	Yes	Yes	Dick Nachbar Western Region Environmental Manager Boise Cascade Corporation
FOP5	Yes	Yes	Rick Hess Environmental Services Portland General Electric
FOP6	No	Yes	Douglas Morrison Northwest Pulp and Paper
FOP7	No	Yes	Kelly Champion Environmental/Safety Administrator Ogden Martin Systems of Marion, Inc.
FOP8	Yes	Yes	David Harvey Pacific Engineering
FOP9	No	Yes	Bonnie Gariepy Intel Senior Environmental Engineer
FOP10	Yes	Yes	Wally S kyrman Patient Representative American Lung Association of Oregon
FOP11	Yes	Yes	Myra Erwin Resident, Ashland
FOP12	Yes	Yes	C. Herschel King, M.D. Retired
FOP13	Yes	Yes	Phyllis Hughes Coalition to Improve Air Quality
FOP14	No	Yes	Mary Ford Resident, Medford
FOP15	No	Yes	Nancy Linton Friends of the Greensprings

<u>No.</u>	<u>Oral Testimony</u>	<u>Written Comment</u>	<u>Name and Affiliation</u>
FOP16	No	Yes	Anne K. Gottschalk Resident, Talent
FOP17	No	Yes	Miriam E. McMullen Resident, Medford
FOP18	Yes	Yes	Ruth Duemler Citizens for Environmental Quality et al  Karyn Jones Citizens for Environmental Quality  Lauri Aunan OSPIRG  Bob Palzer Sierra Club
FOP19	No	Yes	Karyn Jones Citizens for Environmental Quality  Lauri Aunan OSPIRG  Bob Palzer Sierra Club
FOP20	No	Yes	Thomas B. Stibolt, Jr., M.D. Lisa P. Brenner, Ph.D. Residents, Sherwood
FOP21	No	Yes	William E. Lucas, M.D. Resident, Ashland
FOP22	No	Yes	Virginia Lemon, Ph.D. Resident, Ashland
FOP23	No	Yes	Raymond P. Nolan, M.D., Ph.D. Resident, North Bend

<u>No.</u>	<u>Oral Testimony</u>	<u>Written Comment</u>	<u>Name and Affiliation</u>
FOP24	No	Yes	Tom Kerr Rouge Valley Air Quality Coalition
FOP25	No	Yes	Eileen Adee Resident, Medford
FOP26	No	Yes	Janis Young Resident, Ashland

**SUMMARY OF PUBLIC TESTIMONY ON  
REVISIONS TO STATIONARY SOURCE EMISSION STANDARDS AND REQUIREMENTS  
HIGHEST AND BEST PRACTICABLE TREATMENT AND CONTROL**

K1, M2

1. **"Highest and Best Practicable Treatment" rule should be retained or enhanced.**  
Comments submitted on 6/29/93 for the Title V rulemaking regarding the Highest and Practicable Treatment rule still apply (See comment 2). Oregon's air quality rules need to be retained and applied to prevent backsliding. The Highest and Best rule should be retained or enhanced to give DEQ the ability and authority it needs to maintain good air quality. Changes in interpretation and application of the Highest and Best rule may degrade air quality. The affect on air quality should be the determining factor in evaluating amendments to Highest and Best.  

FOP10, FOP11, FOP12, FOP13, FOP14, FOP15, FOP16, FOP17  
FOP18, FOP19, FOP20, FOP21, FOP22, FOP23, FOP24, FOP25, FOP26
2. **Retain broad application of Highest and Best.**  
The current "Highest and Best" standard should be retained. Any changes to Highest and Best should be limited to efforts to better define the means to attain the current objectives of the rule, which currently are extremely broad and must remain so in any revision. Rulemaking authority is not an acceptable way to handle loss of existing authority under the Highest and Best rule. The objective of the program should be continued reduction of emissions to protect public health and welfare rather than to create increased air shed capacity just to be filled by more emissions.
3. **Proposed amendments to Highest and Best are supported with some exceptions.**  
The proposed amendments, including deletions in Division 25, are supported. The proposal could be improved by providing for consideration of energy efficiency in setting operation and maintenance conditions. It should be clarified that the Department has discretion as to which, if any, of the operating and maintenance requirements will be included in the permit. TACT determinations should be coordinated where emissions from several pollutants are inversely proportional. The rule should state that TACT is satisfied if a source is in compliance with RACT, BACT or LAER. TACT thresholds are unreasonably low, in that many sources subject to TACT will not even be subject to permits, and larger sources will have to control smaller units. These issues are further discussed in a memo from the Northwest Pulp and Paper Association to Andy Ginsburg, dated 6/16/93.

P2



4. **Highest and Best is over-broad and should be repealed.**

340-28-600 is vague and over-broad. It could be interpreted in ways that would swallow all the Department's other rules, making them superfluous. More importantly, the rule's vagueness makes the compliance demonstrations required under these new rules impossible. Suggest rule be revised to read:

~~Notwithstanding the general and specific emission standards and regulations contained in this Division, the highest and best practicable treatment and control of air contaminant emissions shall in every case be provided so as to maintain overall air quality at the highest possible levels, and to maintain contaminant concentrations, visibility reduction, odors, soiling and other deleterious factors at the lowest possible levels. In the case of new sources of air contamination, particularly those located in areas with existing high air quality, the degree of treatment and control provided shall be such that degradation of existing air quality is minimized to the greatest extent possible.~~

P4, FOP7

5. **How does Highest and Best interface with BACT and LAER?**

How does the "highest and best practicable treatment and control" requirement impact and/or interface with Best Available Control Technology (BACT) and Lowest Achievable Emission Rate (LAER)?

F

6. **What is the purpose of TACT?**

What is the purpose of Typically Achievable Treatment and Control?

P5

7. **Do not include "processes" in operation and maintenance requirements.**

The operation and maintenance requirements should not regulate emission reduction processes. The Clean Air Act does not permit regulators to dictate how a process is operated as long as it is in compliance with all applicable regulations. Allowing the Department to judge the efficiency of a process gives the Department unlimited power with little or no recourse for the facility. The Department may not regulate the ability of a source to do business. In addition, the Department does not have the resources or process knowledge to regulate processes, so the provision will result in a log jam in permit issuance. The word "process" should be removed from the operation and maintenance requirements, and any other proposed rule.

P8

8. **Additional Control Requirements should be mandatory, not optional.**

Where a violation or projected violation of a standard or visibility requirement has been identified, DEQ should be required to add permit conditions to address. Likewise, DEQ should be required to add any federally applicable requirement in a Title V permit.

9. **Requirements should not be based on projections of NAAQS violations.**

The Department should be able to establish requirements to prevent violations of national ambient air quality standards, but the requirements should not be based on projections. Because projections are based on information that may be unreliable or unavailable, they are not accurate enough to allow regulation. Projections may be useful as guidelines and as an aid in establishing reasonable requirements by other means.

10. **A compliance schedule was inadvertently deleted in conjunction with a Highest and Best cross reference.**

A compliance schedule for wood products sources in OAR 340-25-310 was deleted along with a cross reference to Highest and Best. This schedule may only be deleted if, as a practical matter, all sources are in compliance with the requirements.

**NEW SOURCE REVIEW PROGRAM AND HOUSEKEEPING REQUIREMENTS.**

11. **Problems identified by EPA have not been resolved.**

Several definitions and other provisions of the New Source Review Rules have not been updated to remedy problems identified by the EPA.

a. **MWC pollutants missing from Significant Emission Rate table.**

340-28-110, The definition of "significant emission rate" does not include all of the pollutants currently regulated under the EPA's PSD regulations in 40 CFR 51.166(b) (e.g., pollutants regulated under the NSPS for municipal waste combustors) and will not be approvable as proposed.

b. **Lead missing from significant ambient air quality impact table.**

340-28-110, Note that the definition of "significant ambient air quality impact" does not include an entry for lead.

c. **PSD exemption is too broad.**

340-28-1940(3)(a), The exemption in -1940(3)(a) is too broad and may only exempt "non-PSD" sources from the PSD requirements (OAR 340-28-1940). For example, major sources in nonattainment areas which have potential emissions less than those specified in paragraph (3)(a)(B) must still be subject to the requirements of OAR 340-28-1930. Also, major sources below the size thresholds in paragraph (3)(a)(B) should be eligible to bank emission reduction credits under OAR 340-28-1980.

- d. **Repeal the exemption for Resource Recovery Facilities.**  
340-28-1950(1), The exemption for resource recovery facilities is contrary to the requirements of Part D of the Act (§§172 and 173) and to the EPA's regulations in 40 CFR 51.165, and is not approvable.

P8

12. **EPA has several comments on NSR, Notice of Construction and related definitions in the proposal.**

EPA made the following comments concerning proposed revisions to New Source Review, Notice of Construction and related definitions.

- a. **Definition of Actual Emissions needs revision.**  
The options of using source-specific allowables and potential to emit must be available for periods other than baseline. Why does the proposal allow limits in permits prior to September 8, 1981 to be presumed equal to baseline actual emissions?
- b. **EPA test methods may not be revised by states.**  
The definitions of Alternative Method and Equivalent Method must be revised so that their use is approved by EPA, rather than DEQ. Testing provisions in OAR 340-28-1100 must not allow DEQ to modify a test required by federal rule.
- c. **Definition of Criteria Pollutant may need to be changed.**  
If the term is used to describe pollutants for which an ambient standard has been adopted by EPA, it must be revised because there is no federal standard for particulate matter (only PM<sup>10</sup>) or VOC (only ozone).
- d. **Definition of Major Modification needs substantial revision.**  
EPA has previously commented on revisions needed to address all requirements for creditable emission reductions in calculations of net emission increases.
- e. **Definition of Source could be less stringent than federal.**  
The federal definition includes only parts of a facility within the same major industrial group. The proposal could allow sources to net out of New Source Review by crediting reductions from a part of the facility within another major industrial group.
- f. **Definition of VOC is less stringent than federal.**  
The proposed definition does not indicate how exempted compounds will be measured in order to exclude them for compliance determinations.
- g. **Notice of Construction must be in writing.**  
The requirement to provide notice in writing was dropped when OAR 340-28-800 was restructured and must be reinstated.

C2-4

- h. **Should special NSR provisions for Klamath Falls apply to PM<sub>10</sub> in addition to particulate matter.**  
Should the special provision for particulate matter offsets and LAER in Klamath Falls (OAR 340-28-1930(7)) apply to PM<sub>10</sub> as well?
- i. **Precursor pollutants may only be used as offsets for PM<sub>10</sub> where they are significant contributors.**  
OAR 340-28-1970(4) allows precursor pollutants to be used as offsets for PM<sub>10</sub> emissions a net benefit can be shown. Under the 1990 Clean Air Act amendments, precursor pollutants must be subject to NSR in an area where they significantly contribute to ambient PM<sub>10</sub> concentrations. Thus, if a net benefit were shown for a precursor offset, there would be a concurrent need to amend the New Source Review rules to apply to PM<sub>10</sub> precursors. Since there are no areas in Oregon where precursor pollutants have been determined to be significant contributors to PM<sub>10</sub> concentrations at present, EPA suggests deleting the provision for precursor offsets.

P2, FOP2, FOP3, FOP4, FOP5, FOP6

13. **Do not include hazardous air pollutants in the NSR program.**  
Renumbering the definitions of "major modification" and "major source" without change potentially expands new source review (NSR) to include all Title III pollutants even though Federal law distinguishes between Title I sources and modifications subject to NSR and Title III. Emissions of hazardous air pollutants from a major source that are not subject to MACT should not be subject to PSD review without some scientifically defensible demonstration that the emissions affect public health or the environment.

340-28-110 defines a major source for purposes of new source review as a "source which emits, or has the potential to emit, any pollutant regulated under the Clean Air Act at a Significant Emission Rate." The definition of "Significant emission rate" provides that "For pollutants not listed above, the Department shall determine the rate that constitutes a significant emission rate." Together, these definitions subject HAP emissions to new source review under proposed OAR 340-28-1900 through 340-28-2000. The nonattainment provisions of the Clean Air Act apply only to criteria pollutants. See 42 U.S.C. § 7501(2). In addition, 42 U.S.C. § 7412(b)(6) expressly provides that the prevention of significant deterioration (PSD) provisions of the Act do not apply to HAPs. Because proposed OAR 340-28-1900 through 340-28-2000 are intended to implement the nonattainment and PSD provisions of the Clean Air Act, these provisions should expressly exclude HAPs. The provision authorizing the Department to determine the significant emission rate for pollutants not listed in the definition sets emission rates which are unknown, making it impossible to comply. That provision should be dropped and the Department should, if needed, formalize the process through rulemaking. Suggest definitions of "major modification", "major source" and "significant emission rate" be revised to read:

"Major Modification" means any physical change or change of operation of a source that would result in a net significant emission rate increase ~~(as defined in definition (83))~~ for any pollutant ~~subject to regulation under the Act~~ listed in section (83) of this rule. This criteria also applies to any such pollutants not previously emitted by the source. Calculations of net emission increases shall take into account all accumulated increases and decreases in actual emissions occurring at the source since January 1, 1978, or since the time of the last construction approval issued for the source pursuant to the New Source Review Regulations for that pollutant, whichever time is more recent. If accumulation of emission increases results in a net significant emission rate increase, the modification causing such increases becomes subject to the New Source Review requirements, including the retrofit of required controls. (Renumbered from OAR 340-20-225(15))

"Major Source":

- (a) as used in OAR 340-28-1900 through 340-28-2000, New Source Review, means a stationary source which emits, or has the potential to emit, any pollutant ~~regulated under the Clean Air Act~~ listed in section (83) of this rule at a Significant Emission Rate, ~~as defined in this rule~~. (Renumbered from OAR 340-20-225(16))

"Significant emission rate" means:

- (a) Emission rates equal to or greater than the following for air pollutants regulated under the Clean Air Act:

**Table 2**  
**Significant Emission Rates for Pollutants**  
**Regulated Under the Clean Air Act**

<u>Significant Pollutant</u>	<u>Emission Rate</u>
(A) Carbon Monoxide	100 tons/year
(B) Nitrogen Oxides	40 tons/year
(C) Particulate Matter*	25 tons/year
(D) PM <sub>10</sub>	15 tons/year
(E) Sulfur Dioxide	40 tons/year
(F) VOCs	40 tons/year
(G) Lead	0.6 ton/year
<del>(H) Mercury</del>	<del>0.1 ton/year</del>
<del>(I) Beryllium</del>	<del>0.0004 ton/year</del>
<del>(J) Asbestos</del>	<del>0.007 ton/year</del>
<del>(K) Vinyl Chloride</del>	<del>1 ton/year</del>
(L) Fluorides	3 tons/year
(M) Sulfuric Acid Mist	7 tons/year
(N) Hydrogen Sulfide	10 tons/year
(O) Total reduced sulfur (including hydrogen sulfide)	10 tons/year
(P) Reduced sulfur compounds (including hydrogen sulfide)	10 tons/year

**NOTE:** For the Medford-Ashland Air Quality Maintenance Area, and the Klamath Falls Urban Growth Area, the Significant Emission Rate for particulate matter is defined in Table 3.

- ~~(b) For pollutants not listed above, the Department shall determine the rate that constitutes a significant emission rate;~~

14. **Department discretion too broad in determining significant impairment of visibility.**  
340-28-110, definition of "Significant Impairment" of visibility. The Department has sole judgement authority to make the determination. Suggest that the evaluation should take into account the impact of the source on visibility and the impact of additional controls on visibility, particularly in light of recent research findings, e.g., National Research Council on protecting visibility in national parks and wilderness areas which found that, "in the West, no single source category dominates; therefore, an effective control strategy would have to cover many source types..."

FOP3, FOP4, FOP5, FOP6

15. **Reference to Highest and Best in NSR should be repealed.**  
340-28-1900(2), Suggest rule be revised to read:  
Owners or operators of proposed non-major sources or non-major modifications are not subject to these New Source Review rules. Such owners or operators ~~are~~ **may be** subject to other Department rules including ~~Highest and Best Practicable Treatment and Control Required, OAR 340-28-600, Notice of Construction and Approval of Plans, OAR 340-28-800 through 340-28-820, ACDPs, OAR 340-28-1700 through 340-28-1790, Emission Standards for Hazardous Air Contaminants, OAR 340-25-450 through 340-25-485, and Standards of Performance for New Stationary Sources, OAR 340-25-505 through 340-25-545.~~

P2

16. **Definition of "Source" should not refer to "Activity".**  
The definition of "source" should not refer to "activity". Nothing in the 1990 Clean Air Act Amendments changed the definition of source and the prior definition was acceptable to EPA. The definition should remain as is, consistent with the federal definition of "stationary source". The federal definitions of "stationary source" and "building, structure, facility or installation" only subject an "activity" to new source review if it belongs to a common industrial grouping on common property under common control. The proposal would subject non-industrial activities to new source review. Activities are not amenable to technology-based controls, and it is difficult and costly to calculate or measure emissions from activities. Any regulation of activities should be outside of the new source review program.

P2

17. **Proposal limits methods for determining actual emissions.**  
The proposal suggests that only CMS or calculations based on production rates can be used to measure actual emissions. The proposal does not clearly allow a number of methods of determining actual emissions, including the methods of presumption or equivalency. Actual emissions for fee purposes should refer to the emission fee rules presently under development.

18. **Update the reference to EPA's modeling guidelines.**

EPA has a newer supplement to its modeling guidelines, Supplement B (September 1990). See FR 38816, 7/20/93.

19. **Why was the definition of Resource Recovery Facility deleted?**

Why was the definition of "resource recovery facility" deleted? There does not appear to be an alternative definition. The following definition is suggested:

**Municipal Waste Combustors or Combustion Units (MWC): means an incinerator which is operated to combust municipal solid waste for the purpose of recovering heat or energy, and which utilizes high temperature thermal destruction technologies.**

20. **Why are municipal waste combustors singled out for dioxins and dibenzofurans?**

Why were dioxins and dibenzofurans added to the list of significant emission rates for municipal combustors and not for other industries which emit these chemicals. In addition, the SER for municipal waste combustor acid gases is redundant with the rate for SO<sub>2</sub>. Is the rate per pollutant or total for both SO<sub>2</sub> and HCL? What is the federal regulation reference for these emission rates?

21. **Requirements for emission testing facilities are unreasonable.**

Requirements for a source to provide sampling ports and other testing facilities are unreasonable. Private testing companies only require utilities and access. The proposal presumes that the facility has knowledge of the test method, how to determine where ports should be located, how to determine what constitutes an adequate sampling platform, etc. Very few sources have this knowledge. If the Department requires testing, then the Department should provide all that is required except access and utilities.

## NEW SOURCE PERFORMANCE STANDARDS

22. **Support New Source Performance Standards equal to federal standards**

The New Source Performance Standards proposed in Division 25 are supported with the understanding that they apply only to those sources subject to applicable federal requirements. Suggest clarifying this in the rule discussion document since the language is different from the federal language.

23. **EPA has several comments on the proposed NSPS rules.**

EPA made the following comments regarding proposal to adopt the federal New Source Performance Standards.

a. **Oregon must include federal NSPS requirements in Title V permits.**

States must include all federally applicable requirements in Title V permits. Thus, Oregon must adopt the federal requirements with no substantive changes to receive delegation. If Oregon wants to adopt more stringent requirements, they must be in addition to, not in place of, the federal requirements. Oregon must not adopt any provisions that have the effect of changing the federal regulation. Provisions should be added to clarify that nothing in the Oregon rules change the federal requirements, and that where there is a conflict, both requirements apply.

b. **LRAPA must also enforce the federal provision in Title V permits.**

The delegation from the Commission to LRAPA implies that LRAPA may enforce its provisions in place of the federal provisions if LRAPA's provisions are more stringent. Due to Title V, LRAPA may enforce its provisions in addition to, not in place of, the federal requirements.

c. **Oregon may not replace references to EPA with DEQ for provisions that are not delegated.**

EPA does not delegate some responsibilities, even if the federal rules do not specify that these responsibilities will not be delegated. Oregon may not substitute DEQ for EPA for these responsibilities.

d. **There is an error in the provision for Lignite-Fired Steam Generators.**

It is unclear if the requirement in OAR 340-25-550(1) has the same effect as the corresponding federal requirement.

## NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

24. **Permitting requirements for NESHAPS are unreasonably broad.**

OAR 340-32-230(3) and 340-32-240(3) are unreasonably broad. They require far more sources to obtain permits than required under the ACDP program. In addition, the language is not consistent with exemptions for de minimis emissions of hazardous air pollutants and operational flexibility provisions of Division 28.

25. **EPA has several comments on the proposed NESHAP rules.**

EPA made the following comments regarding proposal to adopt the National Emission Standards for Hazardous Air Pollutants.



- a. **Oregon must include federal NESHAP requirements in Title V permits.**  
Like the NSPS requirements, states must include all applicable NESHAP requirements in Title V permits. Thus, Oregon must adopt the federal requirements with no substantive changes to receive delegation. However, once EPA approves a state rule under Section 112(l) of the Clean Air Act, the state rule may be substituted for the federal rule.
- b. **Oregon may not replace references to EPA with DEQ for provisions that are not delegated.**  
EPA does not delegate some responsibilities, even if the federal rules do not specify that these responsibilities will not be delegated. Oregon may not substitute DEQ for EPA for these responsibilities.
- c. **Requirements for Asbestos should be clarified.**  
Asbestos abatement projects should be exempted from specified provisions directly rather than by exempting them from the definition of Stationary Source. Since Oregon has adopted its own asbestos rules rather than adopt the federal NESHAP, Oregon must ensure that its rules are at least as stringent as the federal rules, including the 1990 revision to the asbestos NESHAP related to survey requirements.
- d. **The applicability for Vinyl Chloride research facilities is different than the federal rule.**  
The cut-off for research facilities in 40 CFR 61.60 is 1075 gallons whereas the cutoff in OAR 340-32-5560 (1) is 1100 gallons.
- e. **There are several typographical errors in the proposal.**  
Citation to EPA reference methods should be to Part 61 or 63, not 61 and 63. In the definition of Chemical Manufacturing Plant, the term "buy" should be "but". Subpart J was left out of the list of adoption by reference in OAR 340-32-5570. In OAR 340-32-5570, the reference to Part 51 should be Part 61, some cross references are incorrect, section (4) appears twice, and the citation to the Solid Waste Disposal Act should specify the federal Act.

#### OTHER COMMENTS

P1

- 26. **Industry-sponsored legislation to limit DEQ authority is opposed.**  
Commentors protest the process by which the Highest and Best rule was addressed. While members of the Industrial Source Advisory Committee were working in good faith to achieve consensus, industry worked for passage of amendments to SB86. The amendments require DEQ to use rulemaking to address non-major and non-criteria sources under Highest and Best. The Department should act expeditiously to protect public health and the environment by developing rules to address these sources and pollutants.

**27. DEQ authority to address Medford air quality has been compromised.**

The latitude that DEQ once had to address Medford air quality issues has been compromised by pressure from the Association of Oregon Industries for statutes which limit DEQ authority to a common mediocre standard. New sources will place Medford air quality at continued risk for exceeding EPA standards. Future growth in population, jobs, infrastructure, and industry will make the problem worse. The commentor endorses the positions of OSPIRG, the Council on Environmental Quality and the Sierra Club (see comment 2).

**28. Deadlines for public comment have been rushed.**

Public hearings for this rulemaking have been rushed. The deadline for public comment submittal came before the last public hearing.

**29. Incineration of nerve gas must be proactively regulated.**

The Department should be proactive in dealing with the possible incineration of military surplus nerve gas in Oregon, and should implement requirements which are beyond the minimum federal program in order to cover gaps where needed.

**30. Certain changes should be made to the Federal Operating Permit Program.**

Several comments were directed toward the federal operating permit program rules proposed on May 17, 1993:

- If an existing ACDP permit term is based on a rule that has been changed, it should not be an applicable requirement for a Title V permit application. The Highest and Best proposal implies that existing permit terms based on rules that have been changed will be altered to correspond with the new rules. With the inconsistency between this and OAR 340-028-110(9)(c), sources preparing permit applications will be required to address both the permit term and the new rule.
- Federal operating permit program sources should be exempt from notice of construction.
- The list of categorically exempt activities is too narrow, and several items should be added to the list. Applicants for federal operating permits should not be required to list categorically insignificant activities nor identify methods to ensure that these activities are in compliance with applicable requirements.
- A minimum of 30 days must be provided in which to request a hearing on a proposed permit; there must be no backsliding from past permitting practices.
- General permits should not be allowed or should be confined to small non-hazardous pollution sources.

- To avoid being required to submit a Title V application, a source must receive (not just apply for) a permit making it a synthetic minor prior to the due date for the Title V application.
- Construction and operating permit processes should not be combined.
- Group processing of minor permit modifications should not be allowed.
- Hazardous air pollutant controls should be beyond the minimum federal program where needed to cover gaps. The list of HAP chemicals should be expanded. Any compound with a structure chemically-related to a HAP should be classified as a HAP until proven otherwise.
- HAP area sources should not be exempt from the federal operating permit program. Citizen petitions identifying HAP area sources should be permitted and, if substantiated, should require development of standards by the Department.

**DEPARTMENT'S EVALUATION OF PUBLIC COMMENT**  
**REVISIONS TO STATIONARY SOURCE EMISSION**  
**STANDARDS AND REQUIREMENTS**

The following is the Department's evaluation of public comments received regarding the Revisions to Stationary Source Emission Standards and Requirements proposed on July 9, 1993. This document includes a brief description of the comments received. For a more detailed description of the comments, see the Summary of Public Testimony attached to the Hearings Report in Attachment C.

**HIGHEST AND BEST PRACTICABLE TREATMENT AND CONTROL**

1. **"Highest and Best Practicable Treatment" rule should be retained or enhanced.**

Response: Highest and Best is an important part of the air quality program because it provides broad authority for the Department to establish permit requirements where there are no other specific rules that apply to a situation. It is also an important part of the State Implementation Plan (SIP) with respect to control of emissions of criteria pollutants. Thus, Highest and Best could not be repealed or relaxed without demonstrating to EPA that there would be no impact on attainment or maintenance of air quality standards.

However, the Department has proposed amendments to clarify the requirements of Highest and Best so that sources can ensure they are in compliance, the Department can ensure that the rule is consistently applied, and the public can better understand the requirements. The Department sought to ensure that the amendments were consistent with past practices in implementing Highest and Best, consistent with statutory requirements, reasonable to implement and enforce, and not a SIP relaxation. To provide clarity, the Department proposed to replace general requirements with specific requirements for operation and maintenance of pollution control devices and processes, control of emission sources not subject to other standards, and additional permit requirements where necessary to address specific problems (including prevention of air quality standard violations and incineration of chemical weapons).

The broad applicability of the original Highest and Best rule was retained, but sources would be deemed in compliance with Highest and Best if they were in compliance with all other applicable requirements including the new specific Highest and Best standards to be adopted. As the need for additional specific requirements is identified, the Department will propose these requirements for adoption by the

Environmental Quality Commission. In the proposal, the Department indicated that the first of these additional specific requirements will be the development of a Highest and Best rule to address public nuisances.

Much of the disagreement among the those commenting concerns the application of Highest and Best to Hazardous Air Pollutants (HAP). On September 9, 1993, the Commission adopted a major new HAP program to implement Title III of the 1990 Clean Air Act Amendments. This program significantly increases the number of pollutants and sources subject to regulation by the Department, and will result in a significant reduction in HAP emissions in Oregon. Some of those commenting felt that Highest and Best should apply to HAP sources which are not regulated by the new HAP program, while others felt that the new HAP program should be implemented before any new HAP regulations are adopted. The Department's proposal would clarify that Highest and Best applies to all HAP sources, but that any specific additional control requirements will be proposed as rules when needed.

The Department is recommending that the Commission adopt the Highest and Best amendments essentially as proposed, with minor changes described in Attachment E. The proposal meets the objectives of clarifying the requirements while maintaining broad applicability. In addition, the 1993 Legislature adopted requirements for amendments to the Highest and Best rule as part of SB 86. It is clear from the language of the bill and the legislative record that the Legislature intended for the Commission to adopt the rules substantially as proposed by the Department, including provisions to adopt additional specific requirements as necessary for sources, pollutants or areas of the state.

**2. Retain broad application of Highest and Best.**

See Response to Comment 1.

**3. Proposed amendments to Highest and Best are supported with some exceptions.**

Several suggestions were made regarding operating and maintenance provisions and Typically Achievable Control Technology (TACT). Regarding operation and maintenance (OAR 340-28-620), it was suggested that the rule should expressly provide for consideration of energy efficiency in setting standards and that the Department should have discretion as to which, if any, conditions to include in a permit. The rule implicitly includes consideration of energy efficiency since the requirement is to operate and maintain at the highest *reasonable* efficiency and effectiveness, as opposed to *full* efficiency and effectiveness. The Department believes that the rule as proposed provides the flexibility needed to establish reasonable permit conditions, and that explicit reference to energy efficiency could result in increased emissions. To clarify that the Department has discretion as to

which conditions to include in a permit, the "and" in OAR 340-28-620(1)(b)(C) has been changed to "or".

Regarding TACT (OAR 340-28-630), it was suggested that TACT determinations be coordinated where emissions from several pollutants are inversely proportional, that the rule should explicitly state that TACT is satisfied if a source is in compliance with RACT, BACT or LAER, and that TACT thresholds are unreasonably low. TACT determinations will be done for each pollutant not otherwise subject to an emission standard at an emissions unit subject to TACT. However, in the rule discussion document accompanying the proposal of TACT (July 9, 1993, Attachment F), the Department indicated its intention to coordinate TACT determinations where there are multiple pollutants from an emissions unit. In addition, requiring a source to meet standards for multiple pollutants which are not simultaneously achievable would not meet the definition of TACT. OAR 340-28-630 already explicitly states that TACT does not apply to emissions units subject to other standards (including RACT, BACT or LAER) for the pollutants regulated by those standards. TACT is only required for emissions units at sources otherwise required to have a permit, so no sources will be subject to permitting solely due to TACT. The thresholds for TACT were set at the level that would trigger permitting for existing sources and at the level that would exceed aggregate insignificant emissions for new and modified sources. The Department believes that these levels are reasonable because they ensure that emissions which are considered significant for permitting purposes are at least subject to the base level of control represented by TACT.

4. **Highest and Best is over-broad and should be repealed.**

See Response to Comment 1.

5. **How does Highest and Best interface with BACT and LAER?**

One of the primary objectives of this rulemaking is to clarify how Highest and Best interfaces with other emission standards such as Best Available Control Technology (BACT) and Lowest Achievable Emission Rate (LAER). In the proposed rule, OAR 340-28-600(2) indicates that sources which comply with other applicable requirements are deemed to be in compliance with Highest and Best. Thus, if a source complies with BACT or LAER, it would not be required to apply additional controls to meet Highest and Best.

6. **What is the purpose of TACT?**

Typically Achievable Control Technology (TACT) is proposed as a specific requirement to clarify what Highest and Best means when applied to sources of criteria pollutants that are not subject to other emission standards. TACT is proposed to apply to criteria pollutant emissions from existing, modified or new

emission units at permitted sources where other specific requirements do not apply. The emission limits will be developed during the permitting process on a case-by-case basis through a procedure specified in the rule. The limits and the procedure are intended to reflect the way the Department has historically interpreted Highest and Best to apply to these sources. Thus, TACT is not a new requirement, although the procedure would be formalized and specified in the rules.

7. **Do not include "processes" in operation and maintenance requirements.**

The comment refers to the proposed requirements that emission reduction devices and *processes* be operated and maintained at the highest reasonable efficiency and effectiveness. Emission reduction may be achieved by specific add-on control equipment or by changes in the design, operation or maintenance of the air contaminant generating process. Highest and Best presently requires that the equipment and processes be operated to minimize emissions. Condition 1 in all stationary source permits indicates "The permittee shall at all times maintain and operate all air contaminant generating processes and all air contaminant control equipment at full efficiency and effectiveness, such that the emissions of air contaminants are kept at the lowest practicable levels."

The proposal specifies that specific operational, maintenance and work practice requirements and/or emission action levels will be included in permits where appropriate to replace the general condition in the permits now. Sources would be required to supply information necessary to specify the requirements and/or emission action levels in the permits. Because emission reduction processes are used in addition to emission reduction devices to meet standards, operation and maintenance requirements must apply to emission reduction processes as well as devices. The proposal does not increase the authority of the Department, but rather provides a more formalized procedure for establishing operation and maintenance requirements.

8. **Additional Control Requirements should be mandatory, not optional.**

OAR 340-28-640 would require the Department to establish additional control requirements by permit under circumstances listed in the rule (e.g. where an air quality standard would otherwise be violated). The lead-in makes the requirements mandatory by using the word "shall" despite the use of the word "may" in some of the sections of the rule. The Department agrees that the use of the word "may" is confusing and has replaced it with "shall".

9. **Requirements should not be based on projections of NAAQS violations.**

OAR 340-28-640 would require the Department to establish controls to prevent violation of a standard caused *or projected to be caused* substantially by a source. The causation would be determined by modeling, monitoring or both. It is necessary to include projections to prevent violations caused by proposed new or modified sources. The use of projections establish requirements is a well established and appropriate practice. For example, new major sources and major modifications are presently required to conduct modeling to ensure that they will not cause a significant impact on air quality or exceed an available PSD increment.

10. **A compliance schedule was inadvertently deleted in conjunction with a Highest and Best cross reference.**

The compliance schedule has been restored.

### **NEW SOURCE REVIEW PROGRAM AND HOUSEKEEPING REQUIREMENTS**

11. **Problems identified by EPA have not been resolved.**

- a. **MWC pollutants missing from Significant Emission Rate table.**
- b. **Lead missing from significant ambient air quality impact table.**
- c. **PSD exemption is too broad.**
- d. **Repeal the exemption for Resource Recovery Facilities.**

These comments from EPA were based on the May 17, 1993 proposal of the Federal Operating Permit Program rules. While that proposal renumbered the New Source Review rules from Division 20 to Division 28, it was not intended to address substantive issues in New Source Review. All of these items were addressed in the July 9, 1993 proposal except for the significant ambient air quality impact entry for lead. At present, there is no entry for lead in the federal or Oregon significant ambient air quality impact tables. EPA intends to adopt an entry for lead in amendments to the federal New Source Review rules scheduled for next year. The Department intends to propose an entry for Oregon consistent with the level proposed by EPA.

12. **EPA has several comments on NSR, Notice of Construction and related definitions in the proposal.**

- a. **Definition of Actual Emissions needs revision.**

The definition has been revised to allow the potential to emit to be used to determine actual emissions for new sources. In addition, the provision to



estimate baseline emissions based on existing permitted emissions was further clarified. When the Plant Site Emission Limit rule was originally adopted, a provision was included to allow the existing permit limits in place at the time to be used to estimate baseline emissions if those limits were within 10% of the calculated emissions. In the proposal, it was clarified that "existing" meant the limit existing prior to September 8, 1981, the original effective date of the PSEL rule. This has been further clarified to mean the limit existing on September 8, 1981.

**b. EPA test methods may not be revised by states.**

The rules have been revised to clarify that equivalent and alternative methods must be approved by EPA, and the variations in test procedures may be approved by the Department only where allowed under federal rules.

**c. Definition of Criteria Pollutant may need to be changed.**

In Division 28, criteria pollutant is only used to refer to pollutants subject to Typically Achievable Control Technology, aggregate insignificant emission requirements, and construction/operation modifications. Since it is not used to refer to pollutants for which EPA has established ambient air quality standards, it does not need to be revised as suggested by EPA.

**d. Definition of Major Modification needs substantial revision.**

The Department is aware of the fact that the proposed revisions do not fully address EPA's concerns with the Definition of Major Modification. In the proposal, the Department indicated that additional changes are planned as part of a separate comprehensive review of New Source Review planned to begin this Fall.

**e. Definition of Source could be less stringent than federal.**

The definition was revised for New Source Review purposes to apply to parts of a plant site within the same major industrial group, consistent with the federal definition, and consistent with the amendments to New Source Review adopted in November, 1992. The broader definition of source including all parts of a plant site was retained for permitting and other purposes.

**f. Definition of VOC is less stringent than federal.**

This was addressed in the amendments to Division 28 adopted on September 10, 1993. The definition is now equal to the federal definition.

**g. Notice of Construction must be in writing.**

The requirement to provide notice in writing was inadvertently dropped in the proposal when 340-28-800 was restructured. This requirement has been restored.

**h. Should special NSR provisions for Klamath Falls apply to PM<sub>10</sub> in addition to particulate matter.**

The special provisions for Klamath Falls were moved from a footnote to the definition Significant Emission Rates to OAR 340-28-1940(7). The footnote clearly applied to both particulate matter and PM<sub>10</sub>. Therefore, in the text that was moved, "particulate emissions" has now been replaced with "particulate matter and PM<sub>10</sub>" to clarify that the special provisions apply to both.

**i. Precursor pollutants may only be used as offsets for PM<sub>10</sub> where they are significant contributors.**

As suggested, the provision allowing for offsets from PM<sub>10</sub> precursors was deleted. If PM<sub>10</sub> precursors are determined to be significant in a nonattainment area at some future date, additional rulemaking will be required to include precursors under nonattainment provisions including offsets.

**13. Do not include hazardous air pollutants in the NSR program.**

At present, New Source Review (NSR) applies to all regulated air pollutants. Under the 1990 Clean Air Act amendments, states are permitted to exempt hazardous air pollutants (HAPs) from NSR because the list of HAPs was greatly expanded and new HAP sources are addressed by recently adopted HAP requirements such as Maximum Achievable Control Technology (MACT). Under the HAP program, new and modified major sources of HAP are subject to MACT and permitting requirements.

Under NSR, HAPs could only be addressed under the requirements for Prevention of Significant Deterioration in attainment areas (PSD) because there are no ambient air quality standards for HAPs. Under the PSD program, a new or modified source with emissions above the significant emission rate (SER) may be subject to Best Available Control Technology (BACT). However, a source which is less than 250 tons of a criteria pollutant which does not exceed a PSD increment is generally exempt from BACT. Thus, HAPs above the SER could be subject to BACT under the PSD program only if they are associated with a new or modified major source of criteria pollutants.

The amendments to NSR in the proposal were primarily designed to address comments from EPA related to SIP approvability. However, to avoid duplication of

the NSR program and the new HAP, the Department included a provision in the original proposal OAR 340-28-1950(4) to exempt HAPs which are subject to a MACT standard from PSD. HAP sources above the SER but below the HAP major source cut-off (generally 10 tons) could still be subject to PSD (including BACT requirements). However, very few sources would be affected because of the exemptions from PSD noted above.

The Department plans to conduct a comprehensive review of the New Source Review rules beginning this fall. As part of this review, the Department will examine how smaller new and modified HAP sources are addressed in the rules and will consider whether HAPs should be completely exempted from PSD.

**14. Department discretion too broad in determining significant impairment of visibility.**

The Department implements the visibility protection requirements of New Source Review consistent with federal guidance. The Department believes that the discretion in the rules for the Department to determine if a significant impairment of visibility would occur from a proposed source is necessary for continued protection of Class I areas. The visibility protection provisions are existing requirements; only non-substantive housekeeping changes have been proposed at this time.

**15. Reference to Highest and Best in NSR should be repealed.**

Because Highest and Best was not repealed, the cross references to Highest and Best can not be repealed. However, the cross references have been updated to reflect restructuring of the Highest and Best rules.

**16. Definition of "Source" should not refer to "Activity".**

The Department agrees with the comment, and has amended the proposal so that the term "activity" is used only in the context of describing a major industrial group consistent with the federal definition.

**17. Proposal limits methods for determining actual emissions.**

The definition of Actual Emissions has been revised to clarify that actual emissions may be determined by continuous monitoring or calculations based on a material balance or emission factor and actual operating conditions. In addition, actual emissions may be based on the potential to emit for new sources. The method of presumption applies only to the determination of baseline emissions for sources which had permit limits at the time the Plant Site Emission Limit rule was adopted. Calculation of actual emissions for permit emission fee purposes has been revised to

be consistent with the emission fee rules proposed for emergency adoption at the October 28-29, 1993 Commission meeting. See also response to comment 12.a.

**18. Update the reference to EPA's modeling guidelines.**

The reference to EPA's modeling guidelines has been updated as suggested by the comment.

**19. Why was the definition of Resource Recovery Facility deleted?**

The exemption for Resource Recovery Facilities from New Source Review offset requirements (OAR 340-28-1950) is no longer allowed under the Clean Air Act and was deleted. Because the term is not used elsewhere in Division 28, the definition was also deleted. Municipal Waste Combustors are defined in Division 25 in the applicable New Source Performance Standard. See the Rule Discussion Document (attachment F) in the July 9, 1993 proposal for further information.

**20. Why are municipal waste combustors singled out for dioxins and dibenzofurans?**

When EPA adopts a New Source Performance Standard which regulates non-criteria pollutants, these pollutants become subject to New Source Review and a Significant Emission Rate (SER) is adopted. EPA specifically established these SER's to apply only to municipal waste combustors (MWC) because the regulation is specific to MWC and may not be achievable by other sources. The Federal Register citation for these requirements is 56 FR 5506, February 11, 1991.

**21. Requirements for emission testing facilities are unreasonable.**

The requirements for emission testing facilities are equivalent to the federal requirements specified in 40 CFR 60.8(e). The Department has proposed explicitly identifying these requirements to OAR 340-28-1100, but they are not new requirements and are consistent with current Department practice. The proposal does not require facility personnel to have knowledge of test methods, but to provide access (including sampling ports and platforms) and utilities for testing equipment.

**NEW SOURCE PERFORMANCE STANDARDS**

**22. Support New Source Performance Standards equal to federal standards**

The proposal has been clarified to ensure that if there is any conflict between the state and federal New Source Performance Standard rules, the federal will apply.

23. **EPA has several comments on the proposed NSPS rules.**

a. **Oregon must include federal NSPS requirements in Title V permits.**

The proposal has been clarified to ensure that the federal requirements are adopted with no substantive changes.

b. **LRAPA must also enforce the federal provision in Title V permits.**

The delegation to LRAPA has been clarified to ensure that if LRAPA adopts rules which are different from the federal requirements, it will still include the federally applicable requirements in Title V permits.

c. **Oregon may not replace references to EPA with DEQ for provisions that are not delegated.**

The replacement of EPA with DEQ has been revised so that it only applies to authorities which are actually delegated.

d. **There is an error in the provision for Lignite-Fired Steam Generators.**

The incorrect reference in OAR 340-25-550(1) has been corrected. Also see response to comment 23.b.

## **NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS**

24. **Permitting requirements for NESHAPS are unreasonably broad.**

The permitting requirements are existing requirements which have been moved from OAR 340-25-460(2) and integrated into the permit requirements in Division 32. The proposal has been revised to better coordinate with the new Federal Operating Permit Program. Essentially, all NESHAP sources will be required to comply with Air Contaminant Discharge Permit requirements and Notice of Construction requirements until the effective date of the Federal Operating Permit Program. After that date, major sources will be required to comply with requirements for Federal Operating Permit Program sources.

25. **EPA has several comments on the proposed NESHAP rules.**

a. **Oregon must include federal NESHAP requirements in Title V permits.**

The proposal has been clarified to ensure that the federal requirements are adopted with no substantive changes.

- b. **Oregon may not replace references to EPA with DEQ for provisions that are not delegated.**

The replacement of EPA with DEQ has been revised so that it only applies to authorities which are actually delegated or authorized.

- c. **Requirements for Asbestos should be clarified.**

The suggested changes for permit exemptions for asbestos abatement projects were made. The Oregon asbestos rules do not meet the requirements of the 1990 revisions to the federal asbestos NESHAP related to survey requirements. Because this issue was not addressed in the public notice for this proposal, the Department proposing these requirements for sources subject to Title V as a separate emergency rulemaking action.

- d. **The applicability for Vinyl Chloride research facilities is different than the federal rule.**

The cut-off for research facilities in 40 CFR 61.60 of 1075 gallons was revised to 1100 gallons by 57 FR 60998, December 23, 1992. According to the Federal Register notice, the original figure printed in the CFR was an error.

- e. **There are several typographical errors in the proposal.**

All of the typographical errors identified have been corrected.

#### **OTHER COMMENTS**

26. **Industry-sponsored legislation to limit DEQ authority is opposed.**

As suggested by the comment, the Department intends to address non-major and non-criteria sources under Highest and Best expeditiously by rule when a need is identified to protect public health and the environment.

27. **DEQ authority to address Medford air quality has been compromised.**

The Department has adopted an attainment strategy for Medford which includes some of the most stringent industrial regulations in the state. Legislation adopted by the 1993 Legislature does not restrict the authority of the Commission to adopt rules necessary to meet federal standards or protect health and the environment.

**28. Deadlines for public comment have been rushed.**

The public notice for this rulemaking exceeded the legal requirements for rulemaking and SIP revisions. The public comment period for this rulemaking opened on July 9, 1993 and closed on August 18, 1993. In addition, a series of Advisory Committee meetings regarding these rules were held beginning on April 13, 1993. There was an error in the notice which indicated that the comment period closed at 5:00 p.m. on August 18th whereas the last public hearing began at 7:00 p.m. on August 18th. However, all oral and written comments received on August 18th were included in the record.

**29. Incineration of nerve gas must be proactively regulated.**

Authority for the Department to regulate incineration of chemical weapons was retained under the Highest and Best proposal. The Department's Air Quality Division and Hazardous and Solid Waste Division have undertaken a coordinated effort to address decommissioning of chemical weapons.

**30. Certain changes should be made to the Federal Operating Permit Program.**

The comment period for the Federal Operating Permit Program closed on July 9, 1993 and the rules were adopted on September 10, 1993.

## ATTACHMENT E

### CHANGES TO ORIGINAL RULEMAKING PROPOSAL MADE IN RESPONSE TO PUBLIC COMMENT

#### 1. Division 12

No changes.

#### 2. Division 25

Typographical, grammatical and stylistic errors were corrected.

Several changes were made in response to EPA comment.

- a. **OAR 340-25-310(4).** In the rule proposal, DEQ proposed to delete all references to Highest and Best contained in Division 25 because of the clarified rules proposed in Division 28. OAR 340-28-600 through 340-28-640 replace all general references in Division 25. In OAR 340-25-310, DEQ originally proposed to delete all of section (4) which contained a Highest and Best reference. However, EPA pointed out that deletion of the entire section also deleted other requirements not necessarily related to Highest and Best. Therefore, DEQ proposes not to delete section (4) in its entirety, but only to delete the reference to Highest and Best. DEQ's final proposal reads:

#### General Provisions

##### 340-25-310

- (4) ~~Upon adoption of OAR 340-25-305 through 340-25-325, e)~~ Each affected veneer, plywood, particle-board, and hardboard plant shall proceed with a progressive and timely program of air pollution control, ~~applying the highest and best practicable treatment and control currently available~~. Each plant shall at the request of the Department submit periodic reports in such form and frequency as directed to demonstrate the progress being made toward full compliance with OAR 340-25-305 through 340-25-325.
- b. **OAR 340-25-510, Definitions.** Definitions applicable to a specific NSPS have been shifted into the specific sections to which they apply.
- c. **OAR 340-25-515 and 340-25-520.** Language has been added to clarify that if the Commission or Lane Regional Air Pollution Authority choose to adopted more stringent source standards than federally required, these



standards will be in addition to federal standards, not in lieu of. DEQ's final proposal reads:

## Statement of Policy

**340-25-515** It is ~~{hereby declared}~~ the policy of the ~~{Department}~~Commission to consider the performance standards for new stationary sources contained in OAR 340-25-505 through 340-25-805 to be minimum standards; and, as technology advances, conditions warrant, and ~~{Department}~~Commission or regional authority rules require or permit, ~~{more stringent standards shall be applied}~~additional rules may be adopted.

## Delegation

**340-25-520** ~~{The Commission may, when any regional authority requests and provides evidence demonstrating its capability to carry out the provisions of OAR 340-25-505 through 340-25-805, authorize and confer jurisdiction upon such regional authority to perform all or any of such provisions within its boundary until such authority and jurisdiction shall be withdrawn for cause by the Commission.}~~

**(1)** The Lane Regional Air Pollution Authority (LRAPA) is authorized to implement and enforce, within its boundaries, the provisions of OAR 340-25-505 through 340-25-805.

**(2)** The Commission may authorize LRAPA to implement and enforce its own provisions upon a finding that such provisions are at least as stringent as a corresponding provision in OAR 340-25-505 through 340-25-805. LRAPA may implement and enforce provisions authorized by the Commission in place of any or all of OAR 340-25-505 through 340-25-805 upon receipt of delegation from EPA. Delegation may be withdrawn for cause by the Commission.

d. **OAR 340-25-530 and 340-25-535.** Language was added to assure that DEQ rules in no way affect the applicability of the federal New Source Performance Standards (NSPS), OAR 340-25-505 through 340-25-805. Also, the rule now makes clear when the term "Director" may be substituted for "Administrator" or "EPA", in 40 CFR Part 60. DEQ's final proposal reads:

## General Provisions

**340-25-530**

**(1)** Except as provided in section (2) of this rule, ~~{Title 140,}~~ CFR~~{,}~~ Part 60, Subpart A~~{, as promulgated prior to March 29, 1989,}~~ (July 1, 1993) is by this reference adopted and incorporated herein.~~{Subpart A includes paragraphs 60.1 to 60.18 which address, among other things, definitions, performance tests, monitoring requirements, and modifications.}~~

**(2)** Where "Administrator" or "EPA" appears in 40 CFR Part 60, Subpart A, "Department" shall be substituted, except in any section of 40 CFR Part 60 for

which a federal rule or delegation specifically indicates that authority will not be delegated to the state.

### **Federal Regulations Adopted by Reference**

~~340-25-535 [Title 40, CFR, Parts 60.40 through 60.154, and 60.250 through 60.648, and 60.680 through 60.685, as established as final rules prior to March 29, 1989, is by this reference adopted and incorporated herein, with the exception of the December 27, 1985 federal register revision to 40 CFR 60.11(b). As of March 29, 1989, the Federal Regulations adopted by reference set the emission standards for the new stationary source categories set out in OAR 340-25-550 through 340-25-725 (these are summarized for easy screening, but testing conditions, the actual standards, and other details will be found in the Code of Federal Regulations).]~~

- (1) Except as provided in section (2) of this rule, 40 CFR Part 60 Subparts D through XX and BBB through NNN and PPP through VVV (July 1, 1993) are by this reference adopted and incorporated herein, and 40 CFR Part 60 Subpart OOO (July 1, 1993) is by this reference adopted and incorporated herein for major sources only.
- (2) Where "Administrator" or "EPA" appears in 40 CFR Part 60, "Department" shall be substituted, except in any section of 40 CFR Part 60 for which a federal rule or delegation specifically indicates that authority will not be delegated to the state.
- (3) Where a discrepancy is determined to exist between OAR 340-25-505 through 340-25-805 and 40 CFR Part 60, 40 CFR Part 60 shall apply.

### **3. Division 28**

At the time the attached amendments were proposed, Division 28 had just completed a round of public hearings on its initial proposal. These proposed rules were adopted at the Commission's September 10, 1993, meeting. During that process, many changes proposed in this package were rolled into the rule package adopted on September 10. Because of this, the rules contained in this package appear to be different from the proposed package. This is to reflect the most current state of the rules and the changes necessary after September 10, 1993. Typographical, grammatical and stylistic errors have also been corrected.

- a. **OAR 340-28-110, Definitions.** Comments were received concerning several specific definitions.

**OAR 340-28-110(2), Actual Emissions.** Comments were received concerning what could be considered in determining actual emissions. DEQ's final proposal reads:

- (2) "Actual emissions" means the mass ~~rate of~~ emissions of a pollutant from an emissions source during a specified time period. Actual emissions shall be

directly measured with a continuous monitoring system or calculated using a material balance or verified emission factor in combination with the source's actual operating hours, production rates, or types of materials processed, stored, or combusted during the ~~selected~~specified time period.

- (a) For purposes of determining actual emissions as of the baseline period:
  - (A) Except as provided in paragraph~~s~~ (B) ~~and (C)~~ of this subsection, actual emissions shall equal the average rate at which the source actually emitted the pollutant during a baseline period and which is representative of normal source operation;
  - (B) The Department may presume ~~that existing~~ the source-specific ~~permitted~~ mass emissions limit included in the permit for ~~the~~a source that was effective on September 8, 1981 ~~is~~are equivalent to the actual emissions of the source during the baseline period if ~~they are~~ it is within 10% of the ~~calculated~~ actual emissions calculated under paragraph (A) of this subsection.~~;~~
- ~~(C)~~b For any ~~newly permitted emissions~~ source which had not yet begun normal operation in the ~~baseline~~ specified time period, actual emissions shall equal the potential to emit of the source.
- ~~(b)~~c For purposes of determining actual emissions for Emission Statements under OAR 340-28-1500 through 340-28-1520, and Major Source Interim Emission Fees under OAR 340-28-2400 through 340-28-2550, actual emissions include, but are not limited to, routine process emissions, fugitive emissions, excess emissions from maintenance, startups and shutdowns, equipment malfunction, and other activities.
- ~~(e)~~ For purposes of determining actual emissions in the calculation of fees for a federal operating permit program source, actual emissions shall equal the actual rate of emissions in tons per year of any regulated air pollutant emitted from the source over the preceding calendar year or any other period determined by the Department or Lane Regional Air Pollution Authority to be representative of normal source operation and consistent with the fee schedule.

OAR 340-28-110(8) and (38), Alternative Method and Equivalent Method. EPA commented that alternative and equivalent test methods need to be approved by EPA where required by federal rule. DEQ's final proposal reads:

- (8) "Alternative method" means any method of sampling and analyzing for an air pollutant which is not a reference or equivalent method but which has been demonstrated to the Department's satisfaction to, in specific cases, produce results adequate for determination of compliance. An alternative method used to meet an applicable federal requirement for which a reference method is specified shall be approved by EPA unless EPA has delegated authority for the approval to the Department.**

**(38) "Equivalent method" means any method of sampling and analyzing for an air pollutant which has been demonstrated to the Department's satisfaction to have a consistent and quantitatively known relationship to the reference method, under specified conditions. An equivalent method used to meet an applicable federal requirement for which a reference method is specified shall be approved by EPA unless EPA has delegated authority for the approval to the Department.**

**OAR 340-28-110(111), Source.** EPA commented that the definition of source was potentially less stringent than the federal. Also, the word "activity" needed to be removed. DEQ's final proposal reads:

**(~~108~~110) "Source":**

**(a) except as provided in subsection (b) of this section,** means any building, structure, facility, installation or combination thereof which emits or is capable of emitting air contaminants to the atmosphere and is located on one or more contiguous or adjacent properties and is owned or operated by the same person or by persons under common control.

**(b) as used in OAR 340-28-1900 through 340-28-2000, New Source Review, and the definitions of "BACT", "Commenced", "Construction", "Emission Limitation", Emission Standard", "LAER", "Major Modification", "Major Source", "Potential to Emit", and "Secondary Emissions" as these terms are used for purposes of OAR 340-28-1900 through 340-28-2000, includes all pollutant emitting activities which belong to a single major industrial group (i.e., which have the same two-digit code) as described in the Standard Industrial Classification Manual, (U.S. Office of Management and Budget, 1987) or are supporting the major industrial group..**

**b. 340-28-640.** Several comments were received on the DEQ's clarification of a long standing policy. EPA commented that the additional control requirements of OAR 340-28-640 should be mandatory, not discretionary. In each section, the term "may" was changed to "shall". DEQ's final proposal reads:

**Additional Control Requirements for Stationary Sources of Air Contaminants**

**340-28-640 The Department shall establish control requirements in addition to otherwise applicable requirements by permit if necessary as specified in sections (1) through (5) of this rule.**

**(1) Requirements shall be established to prevent violation of an Ambient Air Quality Standard caused or projected to be caused substantially by emissions from the source as determined by modeling, monitoring or a combination thereof. For existing sources, the violation of an Ambient Air Quality Standard shall be confirmed by monitoring conducted by the Department.**

- (2) Requirements shall be established to prevent significant impairment of visibility in Class I areas caused or projected to be caused substantially by a source as determined by modeling, monitoring or a combination thereof. For existing sources, the visibility impairment shall be confirmed by monitoring conducted by the Department.
- (3) A requirement applicable to a major source shall be established if it has been adopted by EPA but has not otherwise been adopted by the Commission.
- (4) An additional control requirement shall be established if requested by the owner or operator of a source.
- (5) Requirements shall be established if necessary to protect public health or welfare for the following air contaminants and sources not otherwise regulated under Chapter 340, Division 20 through 32:
  - (a) Chemical weapons; and
  - (b) Combustion and degradation by-products of chemical weapons.

c. **OAR 340-28-800.** EPA commented that DEQ's proposal deleted the requirement that a notice of construction must be in writing and that the in writing requirement must be reinstated. DEQ has reinstated the requirement that the notice be in writing and has restructured the organization of the rule. DEQ's final proposal reads:

**Requirement**

**340-28-800**

- (1) No person shall construct, install, or establish a new source of air contaminant emission without first notifying the Department in writing if such new source is:
  - (a) of any class listed in OAR 340-28-810(1); and
  - (b) not under the jurisdiction of a regional air quality control authority{ ~~without first notifying the Department in writing. OAR 340-28-800 through 340-28-820 shall not apply to federal operating permit program sources.~~
- (2) New construction, installation or establishment includes:
  - (a) Addition to or enlargement or replacement of an air contamination source;
  - (b) A major alteration or modification of an air contamination source that may significantly affect the emission of air contamination.

d. **OAR 340-28-1930(7).** EPA commented whether the provisions for Klamath Falls should apply to PM<sub>10</sub> in addition to particulate matter. DEQ's final proposal reads:

**Requirements for Sources in Nonattainment Areas**  
**340-28-1930**

...

(7) Special requirements for the Klamath Falls Urban Growth Area. For the Klamath Falls Urban Growth Area, particulate matter or PM<sub>10</sub> emission increases of 5.0 or more tons per year shall be fully offset, but the application of LAER is not required unless the emission increase is 15 or more tons per year. At the option of the owner or operator of a source with particulate matter or PM<sub>10</sub> emissions of 5.0 or more tons per year but less than 15 tons per year, LAER control technology may be applied in lieu of offsets.

- e. **OAR 340-28-1940(4) and 340-28-1970(1).** EPA commented that the reference to its modeling guidelines needed to be updated. DEQ's final proposal reads:

**Prevention of Significant Deterioration Requirements for Sources in Attainment or Unclassified Areas** ~~(Prevention of Significant Deterioration)~~  
**340-28-1940**

- ....
- (4) Air Quality Models. All estimates of ambient concentrations required under ~~this~~ rule shall be based on the applicable air quality models, data bases, and other requirements specified in ~~the~~ **40 CFR Part 51, Appendix W, "Guidelines on Air Quality Models (Revised)" (last amended by 58 FR 38816, July 20, 1993)** ~~[EPA 450/2-78-027R, U.S. Environmental Protection Agency, September 1986, including Supplement A, July, 1987]. Where an air quality impact model specified in the "Guideline on Air Quality Models (Revised)" (including Supplement A)]~~ **40 CFR Part 51, Appendix W** is inappropriate, the model may be modified or another model substituted. Such a change shall be subject to notice and opportunity for public comment and shall receive approval of the Department and the EPA. Methods like those outlined in the "Interim Procedures for Evaluating Air Quality Models (Revised)" (U.S. Environmental Protection Agency, 1984) should be used to determine the comparability of models.

**Requirements for Net Air Quality Benefit**

**340-28-1970** Demonstrations of net air quality benefit for offsets shall include the following:

- ....
- (1) A demonstration shall be provided showing that the proposed offsets will improve air quality in the same geographical area affected by the new source or modification. This demonstration may require that air quality modeling be conducted according to the procedures specified in ~~the~~ **40 CFR Part 51, Appendix W, "Guideline on Air Quality Models (Revised)" (last amended by 58 FR 38816, July 20, 1993)** ~~(including Supplement A)]~~.

- f. **OAR 340-28-1970(4).** EPA commented that precursor pollutants could

only be used as offsets for PM<sub>10</sub> where they are significant contributors. DEQ's final proposal reads:

**Requirements for Net Air Quality Benefit**

**340-28-1970** Demonstrations of net air quality benefit for offsets shall include the following:

- ...
- (4) The emission reductions shall be of the same type of pollutant as the emissions from the new source or modification. Sources of PM<sub>10</sub> shall be offset with particulate in the same size range. ~~[In areas where atmospheric reactions contribute to pollutant levels, offsets may be provided from precursor pollutants if a net air quality benefit can be shown.]~~

**4. Division 31**

No changes.

**5. Division 32**

Typographical, grammatical and style errors were corrected.

- a. **OAR 340-32-220 through 340-32-240.** EPA commented that DEQ needs to clarify that asbestos abatement projects were exempt from specific permitting provisions rather than exempting them from the definition of "stationary source". This comment led to several clarifying changes to the permitting provisions of OAR 340-32-220 through 340-32-240. DEQ's final proposal reads:

**Permit Application**

**340-32-220**

- (1) The owner or operator of a HAP source subject to OAR 340-32-400 through 340-32-4500 or 340-32-5500 through 340-32-5650 shall comply with the appropriate application requirements for construction permits, ~~{OAR 340-32-230}~~ and operating permits, ~~{OAR 340-32-240}~~. . . .

**Permit to Construct or Modify**

**340-32-230**

- ...
- (2) Prior to the effective date of the program for a major source and at any time for an area source subject to OAR 340-32-5500 through 340-32-5600 or 340-32-5650, no owner or operator shall:
- (a) construct a new source subject to OAR 340-32-5500 through 340-32-5600 or 340-32-5650 without obtaining an ACDP pursuant to OAR 340-28-1700 through 340-28-1790;

- (b) modify any existing source subject to OAR 340-32-5500 through 340-32-5600 or 340-32-5650 such that HAP emissions are increased without obtaining a modified ACDP pursuant to OAR 340-28-1700 through 340-28-1790;
- (c) modify any existing source subject to OAR 340-32-5500 through 340-32-5600 or 340-32-5650 such that HAP emissions are not increased without obtaining a notice of construction approval pursuant to OAR 340-28-800 through 340-28-820. . . .

**Permit to Operate**

**340-32-240**

- (1) On and ~~a~~after the effective date of the program or at such earlier date as the Department may establish pursuant to OAR 340-28-2120, no owner or operator shall operate a new, existing, or modified major source of HAP emissions without applying for an operating permit as described below.

- (a) The following types of HAP sources shall, within 12 months after initial startup of the construction or modification, comply with the federal operating permit application procedures of OAR 340-28-2100 through 340-28-2320:

- (A) new major sources as described in OAR 340-32-230(a);
- (B) existing sources operating under an ACDP as described in OAR 340-32-230(c);
- (C) existing sources previously unpermitted as described in OAR 340-32-230(d);
- (D) existing synthetic minor sources operating under an ACDP as described in OAR 340-32-230(e)(B);

~~shall, within 12 months after initial startup of the construction or modification, comply with the federal operating permit application procedures of OAR 340-28-2100 through OAR 340-28-2320}.~~

- (d) Any existing major source shall comply with the federal operating permit application procedures of OAR 340-28-2100 through 340-28-2320 upon becoming subject to the federal operating permit program.

- (3) Prior to the effective date of the program for a major source and at any time for an area source, no owner or operator shall operate a new, existing, or modified stationary source subject to OAR 340-32-5500 through 340-32-5600 or 340-32-5650 without first obtaining a permit pursuant to OAR 340-28-1700 through 340-28-1790.

- b. **OAR 340-32-110, 340-32-5500, and 340-32-5520.** Two changes were made in the rules applicable to National Emission Standards for Hazardous Air Pollutants (NESHAP), OAR 340-32-5500 through 340-32-5650 similar those made in Division 25. As in Division 25, definitions applicable to a specific



NESHAP have been shifted to that specific section. Also, in response to an EPA comment, language was added to assure that DEQ rules in no way affect the applicability of the federal NESHAP. DEQ's final proposal reads:

#### **Delegation of authority**

~~340-32-110 [Upon adoption, the Commission shall authorize and confer jurisdiction to the Lane Regional Air Pollution Authority to carry out, within its boundaries, the provisions of this Division.]~~

- (1) The Lane Regional Air Pollution Authority (LRAPA) is authorized to implement and enforce, within its boundaries, this Division.
- (2) The Commission may authorize LRAPA to implement and enforce its own provisions upon a finding that such provisions are at least as stringent as a corresponding provision in this Division. LRAPA may implement and enforce provisions authorized by the Commission in place of any or all of this Division upon receipt of delegation from EPA or approval of such provisions under Section 112(l) of the federal Clean Air Act. Authorization provided under this section may be withdrawn for cause by the Commission.

#### **Applicability**

~~340-~~25-460(1)~~32-5500~~~~[Applicability.]~~ OAR 340-~~25-450~~32-5500 through 340-~~25-485~~32-5650 shall apply to any ~~{source which emits air contaminants for which a hazardous air contaminant standard is prescribed}~~ stationary source identified in OAR 340-32-5530 through 340-32-5650. Compliance with OAR 340-~~25-450~~32-5530 through 340-~~25-485~~32-5650 shall not relieve the source from compliance with other applicable rules of ~~{the Oregon Administrative Rules, Chapter 340}~~this Chapter, ~~{or}~~ with applicable provisions of the Oregon Clean Air Implementation Plan, or with any other applicable federal requirement.

#### **Federal Regulations Adopted by Reference**

##### **340-32-5520**

- (1) Except as provided in section (2) of this rule, 40 CFR Part 61, Subparts A through F, J, L, N through P, V, and Y through FF (July 1, 1993) are by this reference adopted and incorporated herein.
- (2) Where "Administrator" or "EPA" appears in 40 CFR Part 61, "Department" shall be substituted, except in any section of 40 CFR Part 61 for which a federal rule or delegation specifically indicates that authority will not be delegated to the state.
- (3) If a discrepancy is determined to exist between OAR 340-32-5530 through 340-32-5650 and the applicable sections of 40 CFR Part 61, 40 CFR Part 61 shall apply.

## **6. Division 33**

Changes to cross references to Division 32.

**Oregon Department of Environmental Quality  
Air Quality Industrial Source Control Advisory Committee  
Members**

Chair

Arno Denecke  
Salem, OR

Ex Officio

Don Arkell  
Lane Regional Air  
Pollution Authority  
Springfield, OR

Environmental

John Charles  
Oregon Environmental Council  
Portland, OR

Electronics

Bonnie Gariepy  
Intel Corporation  
Hillsboro, OR

Regulated Community

Candee Hatch  
CH<sub>2</sub>M Hill  
Portland, OR

Air Toxics

Day Morgan  
Tigard, OR

Environmental

Karyn Jones  
Citizens for Environmental  
Quality  
Hermiston, OR

Public-at-Large

Janet Neuman  
Lewis and Clark College  
Northwestern School of Law  
Portland, OR

Pulp and Paper and Wood Products

Bob Prolman  
Weyerhaeuser Company  
Tacoma, WA

Public-at-Large

Joe Weller  
Hillsboro, OR

Industry

Jim Whitty  
Associated Oregon Industries  
Salem, OR

**Proxies**

John Arum: Ziontz, Chestnut, Varnell, Berley & Slonim, Seattle,  
WA, for John Charles  
Bob Palzer: Sierra Club, Portland, OR, for Joe Weller  
Mark Morford: Stoel Rives Boley Jones & Grey, Portland, OR,  
for Jim Whitty

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal  
for  
Revisions to Stationary Source Air Quality Emission Standards and Requirements

Rule Implementation Plan

**Summary of the Proposed Rule**

This proposal includes new rules and amends existing rules regarding **New Source Performance Standards (NSPS)**, **National Emission Standards for Hazardous Air Pollutants (NESHAP's)**, **Highest and Best Practicable Treatment and Control (Highest and Best)**, and **New Source Review (NSR)**.

This proposal will allow the Department to update its delegation of authority for EPA's New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants. The amendments to NSPS and NESHAP's will not add additional requirements for sources, but will transfer implementation of these requirements from EPA to the Department. This will enable EPA to approve the Department's operating permit program required under Title V of the Clean Air Act. The Highest and Best Practicable Treatment and Control Rule will clarify the requirements consistent with the Department's historical interpretation and statutory provisions. The new rules will provide greater clarity to sources, particularly when applying for federal operating permits. The New Source Review rule amendments correct errors and clarify requirements.

**Proposed Effective Date of the Rule**

The rules will become effective upon adoption by the Environmental Quality Commission and filing with the Secretary of State, except for Highest and Best which will be effective on January 1, 1994 to allow time for staff training. The rules will be considered by the Commission at its October 28-29, 1993 meeting. The NSPS and NESHAP amendments must be submitted to EPA by the Clean Air Act deadline, November 15, 1993.

### **Proposal for Notification of Affected Persons**

These rules will be implemented through the Department's *permit* and *notice of construction* programs. New and modified sources will be required to identify how they will comply with applicable requirements in permit and notice of construction applications. The applicable requirements will be included in permits and notice of construction approvals. Information on the new requirements will also be included in the Department's publication, "Air Time" newsletter, which is distributed to industrial sources on a quarterly basis.

### **Proposed Implementing Actions**

Where the requirements are not already included in permits for existing sources, the Department intends in most cases to incorporate the requirements in permits upon renewal. For sources subject to the federal operating permit program, the requirements will be incorporated in permits as they are issued during the phase-in period of up to 3 years after the effective date of the federal operating permit program. For new and modified sources, the Department will incorporate the requirements upon permit or construction approval.

### **Proposed Training/Assistance Actions**

Effective implementation will require training DEQ permit writers and inspectors on the new rules, in addition to developing and providing reference materials for affected DEQ staff -- permit writers and inspectors. The Air Quality Permitting Manual, applications, notices, and other related permit forms will be revised to incorporate new requirements. A supplemental reference package will be developed containing a reproduction of the Code of Federal Regulations applicable to NSPS and NESHAP rules which are adopted by reference. Specific proposed actions are outlined below.

#### **■ UPDATE AIR QUALITY PERMITTING MANUAL**

Guidelines for applying Highest and Best, NSR, NSPS and NESHAP amendments will be incorporated into the draft Air Quality Permitting Manual. This will include an expanded discussion for applicants addressing NSPS, NESHAP's and New Source Review changes.

A new appendix will be created to encompass new control requirements and operation and maintenance provisions contained in Highest and Best. This will include guidance on replacing general requirements with specific requirements, pollution prevention, operating and maintenance requirements, emission action levels, and Typically Achievable Control Technology (TACT).

## ■ REVISE PERMIT APPLICATION FORMS

New requirements included in Highest and Best will be incorporated into permit application forms. These requirements include submittal of information related to pollution prevention, cross-media impacts, and operation and maintenance ensuring the highest reasonable efficiency and effectiveness to reduce emissions.

## ■ INDEX, SUMMARY AND COMPILATION

Federal regulations adopted by reference for NSPS and NESHAP's will be compiled and indexed, and a summary of new requirements will be developed.

## ■ STAFF TRAINING

**PERMIT WRITERS** -- training will focus on interpreting Highest and Best; how to use the NSPS/NESHAP's index; and differences in the NSR revised language. This training will most likely be conducted at specially scheduled sessions, and may be held at more than one location.

**INSPECTORS** -- inspectors will receive training on the applicability of the new rules and various requirements. This training will be provided at an Inspectors Forum Meeting.

Testimony given at DEQ hearing Medford August 17, 1993

Good Evening

My Name is Wally Skyrman and I am the Patient Representative with the Southern Oregon Regional Board of the American Lung Association of Oregon. On behalf of The Coalition To Improve Air Quality, I wish to welcome the DEQ to the Rogue Valley. Presently the Coalition includes members from the American Lung Association of Oregon, Better Breathers, Friends of the Greensprings, Headwaters, P.A.C.T., Jackson County Citizens League, Rogue Group Sierra Club, Rogue Valley Audubon, Murphy Citizens Advisory Committee, League of Women Voters and other interested citizens.

The Coalition to Improve Air Quality locally have not been kept abreast of the changing situation in regards to current legislative action and some of what is said here today may not be relevant to current situation.

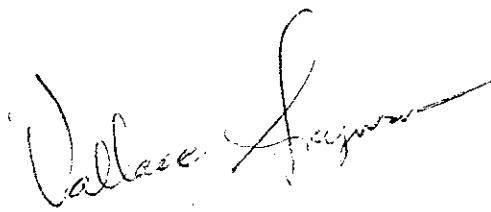
From what I hear personally I understand the latitude that the DEQ has had in the past in dealing with our unique situation locally has been compromised by AOI pressure pushing for statues limiting DEQ authority to a common mediocre standard. While I feel this is correct understanding I hope that I am in error.

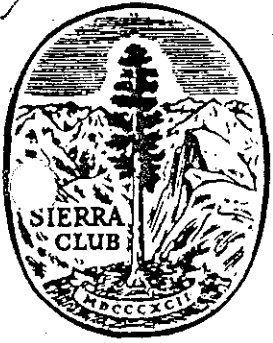
The Holzworth study commissioned by the EPA illustrated that Medford to be one of two areas in our nation to have the greatest potential for winter air stagnation. Due to good air flows the past two winters plus actions taken on many varied sources of pollutant we have meet standards for minimal health standards. It should be stressed that the EPA standards are for minimal levels and to degrade our air further with new sources and relaxed standards will keep us at this threshold and below indefinitely. Everyone should be made aware of our problem and be cognizant that further growth in population, jobs, infrastructure, and industry is making the problem worse and harder to remedy.

As stated in earlier testimony on this topic we endorse the positons taken by Osprig, Citizens for Environmental Quality and Sierra Club. We urge you to consider and adopt the concepts and ideas developed in it.

In closing, we thank you for coming and I hope that any actions that you consider taking will pass the test of improving our air quality and health first with all other considerations being of secondary importance.

Wallace Skyrman  
4588 Pacific Hwy North  
Central Point, OR 97502





# Rogue Group - Sierra Club

August 17, 1993

Hearings Officer  
Oregon DEQ  
Air Quality Division  
811 SW Sixth Ave.  
Portland OR 97214

Dear Sir:

Comments submitted by the Rogue Group Sierra Club at the June 29, 1993 Medford Hearing apply equally here tonight. We urge you to also take cognizance of others' remarks at that hearing insofar as they applied to the Highest and Best rule.

Oregon has good clean air and good clean air rules. We need to retain them and apply them to ensure progress and prevent back-sliding.

Notwithstanding recent legislative activity concerning the Highest and Best rule, we urge that this rule be retained or enhanced to give DEQ the ability and the authority it needs to "maintain overall air quality at the highest possible levels."

In the longrun a clean healthful environment will result in a healthy sustainable economy, and will contribute positively to the health and wellbeing of all who live and work here.

Oregonians deserve nothing less. Please keep this rule and work with us toward that end.

Sincerely,

Phyllis Hughes  
Executive Committee

3721 Forest Creek Rd.  
Jacksonville OR 97530  
(503) 899-7146



LEAGUE OF WOMEN VOTERS  
OF OREGON

K1

TESTIMONY

August 18, 1993

TO: Department of Environmental Quality, Air Quality Division

RE: Revisions to Stationary Source Air Quality Emission  
Standards and Requirements

The League of Women Voters of Oregon has been following your Department's rulemaking for air emission sources with considerable interest and appreciates that this hearing is being held in Klamath Falls, an area which has experienced air pollution first hand. The League has worked to improve air quality at both the state and local level for years.

The League understands the need of the Department of Environmental Quality to meet the Environmental Protection Agency's deadline for Clean Air Act implementation; however, the second round of public hearings has been rushed to the extent that the deadline for submitting written comments comes before the last hearing.

The League is concerned that air quality might be degraded by changes to the way the Highest and Best Practicable Treatment and Control measures are interpreted and applied. The Highest and Best measures have applied to all emission sources and all pollutants, as well as large and small businesses since it was adopted in 1972. League urges that the results from amendments aimed at more specific standards be carefully compared with those from the Highest and Best Practicable Treatment and Control. Rules are subject to interpretation; the effects on air quality should be the determining factor.

Cheri Unger,  
President

Mavis McCormic,  
Natural Resources



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4:10

Aug. 18, 1993

Mr. Andy Ginsburg  
Air Quality Division  
Oregon Department of Environmental Quality  
811 SW 6th Avenue  
Portland, OR 97204

Re: Comments on the proposed rule governing Highest and Best Practicable Treatment and Control as per public notice dated July 9, 1993.

Dear Mr. Ginsburg:

Please accept these comments on behalf of the undersigned members of DEQ's Industrial Source Advisory Committee on the proposed rule governing Highest and Best Practicable Treatment and Control. We still stand by the original policy position paper on this issue dated June 25, 1993 submitted by more than 20 statewide organizations and written comments on the proposed rule package submitted on July 8, 1993. We incorporate by reference the comments submitted in these documents here.

In addition, the undersigned wish to reaffirm our earlier position that the revision of the Highest and Best rule is an impermissible relaxation of Oregon's state implementation plan.

Aug 18, 1993

Finally, the undersigned hereby protest the process by which this issue was addressed. As members of DEQ's advisory committee we were working in good faith to achieve consensus on the entire rule package. As this process was proceeding, industry representatives sought and worked to ensure passage of amended SB 86. As you know, the amendments require DEQ to proceed by rulemaking when addressing "non-major" sources or sources emitting "non-criteria" pollutants. In order to fill the obvious gaps created by SB 86, we urge DEQ to promptly initiate rulemakings. The Department should act expeditiously to protect public health and the environment by developing rules to address these sources and pollutants.

Sincerely,

Bob Pelham, Sierra Club

Karyn J. Jones, CEO

Arnette Hebe, OEC

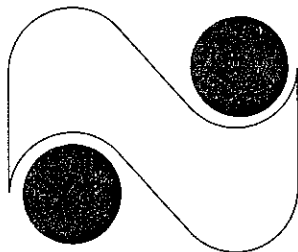
Lauri Annans, OSPEB

W. Day Morgan, R.P.I.

Janet Mounan

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**NORTHWEST  
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H. NO IVERED

Aug. 18, 1993

Andy Ginsburg  
Air Quality Division  
Department of Environmental Quality  
811 S.W. 6th Avenue  
Portland OR

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AIR QUALITY DIVISION  
Dept. Environmental Quality

**RE: Comments on DEQ Proposed Rule Revisions to Stationary Source Air Quality Emission Standards and Requirements**

Dear Mr. Ginsburg:

The Northwest Pulp and Paper Association (NWPPA) is pleased for the opportunity to comment on the referenced rules. The attached comments on your proposals are on behalf of NWPPA's Oregon members, including Boise Cascade, Georgia-Pacific, James River, Pope & Talbot, Simpson Paper and Weyerhaeuser. We look forward to the Department's response to these comments.

#### **Comments on New Source Performance Standard Proposals**

NWPPA supports the proposals with the understanding that the proposals apply only to those sources subject to the corresponding federal requirements. Because the applicability sections read differently than the corresponding federal requirements, it would help to include an explanatory statement in the rule discussion document that clearly states the DEQ intent to adopt only the federal requirements.

#### **Comments on Permitting Procedures--Division 28**

**28-110(2)** The proposal suggests that **only** CMS or calculations based on production rates can be used to measure actual emissions. The proposal does not clearly allow a number of methods of determining actual emissions, including the methods of presumption ((2)(a)(B)) or equivalency ((2)(a)(C)). NWPPA suggests deleting the last sentence in the introductory paragraph and restoring and modifying the deleted language at the end of (2)(a)(B). Thus, there will be three methods identified in the rule: 1) those under (2)(a) for determining annual emissions as of the baseline period, 2) the methods described in the rules for Emissions statements and Interim Fees referred to in (2)(b), and 3) the methods the department is developing for permanent fees under (2)(c). It is not necessary to identify these methods in the introduction.

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**28-110(2)(c)** Rather than state "consistent with the fee schedule", the rules should refer by number to the rules covering payment of permanent fees presently under development.

**28-110(56)** The use of this term under Division 28 should include reference only to **criteria** pollutants (or at most to those with significant emission rates in Table 2), rather than all regulated pollutants. New source review for HAPs occurs under Division 32. Emissions of HAPs from a major source that are not subject to MACT limitations should not be subject to PSD review without some scientifically defensible demonstration that the emissions affect public health or the environment. The PSD program is a program for **criteria** pollutants. The DEQ should make this clear with a corresponding change to 28-1940(1) by inserting the word "criteria" before "pollutant" (or, alternatively, by reference to the significant emission rates developed by rule).

**28-110(84)(b)** See comment for 110(56).

**28-110-87** NWPPA objects to the addition of the word "activity".. Nothing in the Clean Air Act Amendments of 1990 changed the definition of "source" for new source review. As the current definition was satisfactory to EPA before the 1990 amendments, it should still be satisfactory.

EPA's current rules (40 CFR § 51.165 AND 51.166) define a source with respect to whether it is a "stationary source":

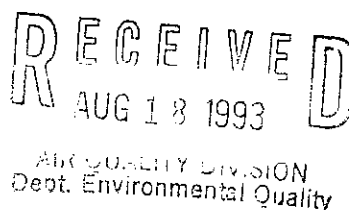
Any building, structure, facility or installation which emits or may emit any air pollutant subject to regulation under the Act. 51.165(a)(1)(i).

The phrase "building, structure, facility or installation" is further defined as:

All of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. 51.165(a)(1)(ii).

The federal definitions subject an "activity" to preconstruction review only if it belongs to a common industrial grouping located on a common property under common control. The proposal would subject **non-industrial activities** to preconstruction review. The definition must retain the concept that a source is defined by the pollutant-emitting activities which belong to the same industrial grouping . . . ."

As proposed, the change would affect all new or modified sources **statewide** because the term "source" applies to the entire NSR rules, including Prevention of Significant Deterioration (PSD) rules for sources in attainment areas. This definition should remain as it is, which is consistent with the federal definition of "stationary source". Including **activities** within this definition does not make sense because activities are not as amenable to technology based



controls (LAER or BACT) which is the required method of controlling emissions from new or modified sources. Also, it is difficult and costly to calculate, let alone measure, emissions from activities. Thus, it would also be difficult to model any emissions or do any meaningful ambient impact analysis. For these reasons, DEQ should refrain from adding "activities" to the definition of source for the purposes of new source review. This is not meant to imply that "activities" should go unregulated. Rather, DEQ should continue to regulate activities where it makes sense for air quality and economics, but not under the new source review requirements for stationary sources as that term is defined in the federal regulations.

**28-600 to 640** NWPPA supports the proposals for amending the Highest and Best rules, including the deletions proposed for Division 25. While we support the rule as proposed, we also believe the rule can be improved. The rule should expressly provide for consideration of energy efficiency in setting operations and maintenance conditions in permits. The rule should provide for coordination of TACT limitations on several pollutants from an emissions unit where the levels of emissions are inversely proportional. The rule should state that TACT is conclusively satisfied if the emissions unit is in compliance with a RACT, BACT or LAER determination. We find the threshold limits of when TACT applies to be unreasonably low, in that many sources with these levels of emissions will not even be subject to permits, while larger sources must control smaller units. These issues are further discussed in NWPPA's June 16, 1993 memo to Andy Ginsburg.

**28-600(5)** NWPPA supports the language as proposed, but points out that the language here is inconsistent with the proposed definition of at 340-28-110(9)(c) that makes any term in an existing ACDP permit an applicable requirement. If an existing ACDP permit term is based on a rule that has been changed, it should not be an applicable requirement and should not be addressed in a permit application. The proposed 600(5) implies that existing permit terms based on rules that have been changed will be altered to correspond with the new rules, which is the correct approach. With the inconsistency between 600(5) and 110(9)(c), sources preparing permit applications will be required to address both the permit term and the new rule.

**28-620(1)** The proposal should be clarified, either through a rule change or an explanatory statement, that the Department has discretion as to which, if any, of the requirements listed in 620(1)(b) will be included in the permit. As proposed, the rule could be read to require all of the requirements in (1)(b) if any are deemed appropriate. The rule discussion document at page F-8 is expressed in the alternative ("or"), while the rule is expressed in the conjunctive ("and"). NWPPA prefers the approach in the discussion document.

**28-810** FOPP sources should be exempt from the requirement to provide notice of construction.

**28-1940(4)** EPA has a newer supplement to its modeling guidelines— Supplement B (September 1990). See 58 Fed. Reg. 38816, July 20, 1993.

August 18, 1993  
Andy Ginsburg  
Page 4

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Dept. Environmental Quality

32-230(3)

32-240(3)        These two sections are unreasonably broad. It is only those sources listed in Table 4 of 340-28-1750 that must get an ACDP. As written, these rules would require far more sources to obtain permits. Additionally, the proposed language is not consistent with the exemption from preconstruction review or operating permit modifications for *de minimis* emissions of HAP, and the operational flexibility provisions of Division 28.

Please contact me if you have any questions or comments about these comments.

Sincerely,



Douglas S. Morrison  
Environmental Counsel



# REYNOLDS METALS COMPANY

P.O. Box 27003 • Richmond, Virginia 23261-7003

August 16, 1993

Mr. Andy Ginsberg  
 Senior Rules and Policy Specialist  
 Air Quality Division  
 Department of Environmental Quality  
 811 S.W. 6th Avenue  
 Portland, Oregon 97204

RE: July 9, 1993, Proposed Revisions to  
 Stationary Emission Standards and  
 Requirements

Dear Mr. Ginsberg:

After reviewing Oregon's July 9, 1993, Proposed Revisions to Stationary Emission Standards and Requirements, we have the following comments regarding Oregon's proposed list of "categorically insignificant activities," at OAR 340-28-110(15), and Oregon's proposed requirements for insignificant activities as set forth at OAR 340-28-2120(3)(c)(D).

## OAR 340-28-110(15)

We believe that the list of categorically insignificant activities provided in this definition is too narrow to provide sufficient guidance to applicants regarding what the State of Oregon considers to be an insignificant activity. Such a narrow list will result in unnecessarily harsh and unreasonable reporting requirements for the emissions from sources that should be considered insignificant due to the nature of the activity. A more comprehensive list of categorically insignificant activities would also reduce the amount of paper work which will be generated by having to address the emissions from a potentially large number of small sources of emissions.

More specifically, we request that the following operations be included among the other categorically insignificant activities that are listed in this definition: laboratory equipment used exclusively for chemical and physical analyses; small maintenance degreasers; cutting, welding and lancing operations; mobile equipment powered by propane.

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 Dept. Environmental Quality

Mr. Ginsberg  
August 16, 1993  
Page 2

gasoline or diesel fuel; and boilers that burn natural gas or propane with a heat input capacity less than 10 million British thermal units per hour.

**OAR 340-28-2120(3)(c)(D)**

According to 40 CFR 70.5(c), insignificant activities and emission levels need not be included in permit applications. Only those insignificant activities which are exempted because of size or production rate need to be **listed** in the application.

Requiring that applicants list categorically insignificant activities, identify the applicable requirements for all insignificant activities, and identify the methodology that the applicant will use to ensure the insignificant activity's compliance with those applicable requirements is unduly burdensome and ultimately defeats the purpose of allowing an exemption for insignificant activities.

For several of those activities identified in the definition of categorically insignificant activities there are no known applicable requirements or methodologies for emissions control. For example, we are unaware of any methodology for controlling emissions from "personal care activities" or "janitorial services." This is more evidence that requiring that such information be provided with regard to categorically insignificant activities is unreasonable and capricious.

We greatly appreciate the opportunity to comment. If you have any questions, please feel free to call me at (804) 281-2788.

Sincerely,



Michael F. Tanchuk  
Manager, Air Quality and  
Technical Studies



# OGDEN MARTIN SYSTEMS OF MARION, INC.

4850 BROOKLAKE RD., N.E.  
P.O. BOX 9126  
BROOKS, OREGON 97305  
(503) 393-0890

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AN OGDEN  
PROJECTS COMPANY

18 August 1993

AUG 18 1993

Oregon Department of Environmental Quality  
Air Quality Division  
811 SW 6th Avenue  
Portland, OR 97204

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AIR QUALITY DIVISION  
Dept. Environmental Quality

Attn: Andy Ginsburg

Re: Ogden Martin Systems of Marion, Inc.  
Marion County Solid Waste-to-Energy Facility, Brooks, Oregon

Subject: Comments on "Rulemaking Proposal - Revisions to Stationary Source Air Quality Emission Standards and Requirements (New Source Performance Standards, National Emission Standard for Hazardous Air Pollutants, Highest and Best Practicable Treatment and Control, and New Source Review)"

Dear Mr. Ginsburg:

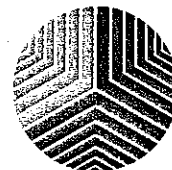
On behalf of Ogden Martin Systems of Marion, Inc. (OMSM), I am writing to provide comments on the Oregon Department of Environmental Quality's (DEQ) proposed stationary source air quality emission standards and requirements. For convenience of the review, I have restated the proposed language to provide context for the comments. Alternate text recommendations are offered for your consideration where appropriate. (Please note: Underlined text is that which OMSM propose be adopted as part of the final regulations.)

I. OAR 340 DIVISION 28 - STATIONARY SOURCE AIR POLLUTION CONTROL AND OPERATING PERMIT RULES

A. Definitions

1. Page A3-13. Resource Recovery Facility.

~~“(78) “Resource Recovery Facility” means any facility at which municipal solid waste is processed for the purpose of extracting, converting to energy, or otherwise~~



~~separating and preparing municipal solid waste for reuse. Energy conversion facilities shall utilize municipal solid waste to provide 50% or more of the heat input to be considered a resource recovery facility"~~

Comment: OMSM is curious regarding the rationale for deleting this definition. We are especially concerned because there does not appear to be an alternative definition to describe our industry. OMSM would like to propose that the following definition be included:

Municipal Waste Combustors or Combustion Units (MWC): means an incinerator which is operated to combust municipal solid waste for the purpose of recovering heat or energy, and which utilizes high temperature thermal destruction technologies. This definition should be numbered 340-28-59, with subsequent definitions renumbered accordingly.

2. Page A3-15 Table 2. Significant Emission Rates for Pollutants Regulated Under the Clean Air Act.

" ...

<u>(Q)</u>	<u>Municipal waste combustor organics</u> <u>(measured as total tetra- through octa-</u> <u>chlorinated dibenzo-p-dioxin and dibenzofurans)</u>	<u>0.000035 tons/year</u>
<u>(R)</u>	<u>Municipal waste combustor metals</u> <u>(measured as particulate matter)</u>	<u>15 tons/year</u>
<u>(S)</u>	<u>Municipal waste combustor acid gases</u> <u>measured as sulfur dioxide and hydrogen chloride)"</u>	<u>40 tons/year</u>

Comment: Why are municipal waste combustors singled out for dioxins and dibenzofurans?. Other industries also emit these chemicals. In addition, "(S)" appears to be redundant, an emission rate is set for SO<sub>2</sub> in item "(E)". Is the emission rate under "(S)" per pollutant or total for both SO<sub>2</sub> and HCl? What is the federal regulation reference for these emission rates?

**B. HIGHEST AND BEST PRACTICABLE TREATMENT AND CONTROL REQUIRED**

1. Page A3-19 340-28-600(1)

"As specified in OAR 340-28-610 through 340-28-640 and sections (2) through (5) of this rule, the highest and best practicable treatment and control of air contaminant emissions shall in every case be provided so as to maintain overall air quality at the highest possible levels, and to maintain contaminant concentrations, visibility reduction, odors, soiling and other deleterious factors at the lowest possible levels. In the case of new sources of air contamination, particularly those located in areas with existing high

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air quality, the degree of treatment and control provided shall be such that degradation of existing air quality is minimized to the greatest extent possible.

Comment: How does the "highest and best practicable treatment and control" requirement impact and/or interface with BACT and LAER?

2. Page A3-22. Typically Achievable Control Technology

Comment: What is the purpose of this section?

Thank you for taking the time to review OMSM's comments. If you have questions or need additional information, I can be reached at (503) 393-0890.

Sincerely,

Kelly J. Champion  
Environmental/Safety Administrator

cc: Mirah Becker, Ogden Projects Inc  
Russ Johnston, Ogden Martin Systems of Marion  
Drew Lehman, Ogden Projects Inc  
Jim Sears, Marion County Solid Waste Management  
Ray Tulli, Ogden Projects Inc.

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Dept. Environmental Quality

AUG 18 1993

Department of Environmental Quality  
Air Quality Division  
811 S.W. Sixth Avenue  
Portland, Oregon 97204

August 3, 1993

**BLOUNT**

Re: Comments on Proposed Amendments to OAR Chapter 340, Division 28 (Additional changes proposed after initial hearing).

Dear Comment Reviewer:

On behalf of BLOUNT, Inc., Oregon Cutting Systems Division, I wish to take this opportunity to thank the Department for the opportunity to comment on the proposed additional amendments to the Clean Air Rules for the State of Oregon. Having reviewed the latest proposed amendments, I offer the following comments.

In the newly proposed section entitled HIGHEST AND BEST PRACTICABLE TREATMENT AND CONTROL REQUIRED, OAR 340-28-610 through 340-28-640, two concepts are proposed which clearly allow the Department to extend its scope of authority beyond where it is allowed to go within the provisions of the Clean Air Act, i.e., control over the types(s) and amount(s) of pollutants expelled to the air. OAR 340-28-620(2)(a) specifically states that "Where the Department has determined that specific operational, maintenance, or work practice requirements considered or required under section (1) of this rule are not sufficient to ensure that a source is operating and maintaining emission reduction devices and processes at the highest reasonable efficiency and effectiveness, the Department may establish, by permit or Notice of construction approval, specific emission action levels in addition to applicable emission standards." The objection to this statement rests with the use of the word "processes". The most stringent language in the Clean Air Act Amendments of 1990 specifies that a source must list all applicable requirements in a Title V operating permit and further, how the source plans to meet them. While it is true that a source may have to explain which process will be used to meet a specific requirement, the Act does not permit regulators to dictate how a process is operated as long as it is in compliance with all applicable regulations.

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Dept. Environmental Quality

To allow the Department to pass judgement and, subsequently dictate whether or not a process is being operated efficiently and effectively places almost unlimited power in the hands of the Department with little or no recourse for the facility. Further, it is entirely possible that a process which is directly responsible for air pollution control may be directly related to production and the sources ability to do business. While it is true that the Department can regulate emissions, it cannot regulate the ability of a source to do business (with the narrow exception of sources which voluntarily restrict themselves to become and remain synthetic minors). Removing the word "processes" from OAR 340-28-620(2)(a) and any other proposed rule would certainly not diminish the intent or effectiveness of the rules and at the same time would not give the Department almost unlimited control (perceived or real) over the ability of a source to do business.

As an aside, another manifestation of including the word "processes" would be the enormous burden of process knowledge placed on the Department. With a small technical staff and finite resources, requiring the Department to regulate not only pollution but pollution control processes is placing an undue technical and resource burden on the Department. Further, unless additional manpower and resources are allocated for technical education, the entire "Highest and Best" portion of the rules will become bogged down in technical debate between process-knowledgeable industry representatives and Department personnel who may have little or no specific process knowledge. Such a log jam is not in the best interest of anyone.

The other disagreeable concept which comes out of the "Highest and Best" section of the proposed amendments is specifically addressed in OAR 340-28-640(1) and (2). While we agree that the Department should be able to establish requirements to prevent violation of an Ambient Air Quality Standard, we do not agree that the establishment of these requirements may be based on projections, regardless of how the projections are determined. The ability of the Department to establish requirements from projections assumes that the projections are accurate. To make this assumption, one must assume that one has all of the necessary information to make the projection. To make this assumption, one must assume that the source of information is reliable, etc., etc. In essence, to make any type of projections, even from monitoring, one must have specific source knowledge and experience. We do not believe that either are attainable by the Department to the level necessary to allow regulation by projection. We do, however, believe that projections may be useful as guidelines and, if properly used for their intent as such, may aid in establishing reasonable requirements by other means.


(3)

In the portion of the rules entitled **Sampling, Testing and Measurement of Air Contaminant Emissions**, sections (2) and (3) are proposed to be added to OAR 340-28-1100. Specifically, section (2) addresses what may be required to be provided by a source in the event that the Department requires the source to conduct emission testing. We believe that the requirements are unreasonable. When a source contracts with a private testing consultant to perform emissions testing, **all that is required** of the source are utilities and access. It is unrealistic to expect a source to provide "sampling ports, safe sampling platforms, and access to sampling platforms adequate for test methods applicable to such source". Such a requirement presumes that someone at the source knows the appropriate test method, how to determine where the ports should be located, how to determine what constitutes an adequate sampling platform, etc. For most sources, such a presumption is erroneous.

Very few sources have, as part of their staff, environmental professionals who have the expertise to make their source test-ready for the Department to bring in equipment and conduct tests. Actually, source testing methodology and technology is developmentally behind emission control technology by many years. This means that knowledge in the field is extremely limited. Thus, to make these requirements of a source is not only unrealistic, but it may place the source at a financial disadvantage from the standpoint of having to find someone with the required expertise and/or being able to do business. It seems only reasonable that if the Department is going to require testing, then the Department should supply all that is required except access and utilities. Since the Department will probably contract out any testing, the requirements of the source should be no different than if the source hired the same contractor on its own.

Thank you for this opportunity to comment on the additional proposed amendments to the Clean Air Act Rules for the State of Oregon. Please place me on your mailing list for receipt of any response to the general comments on this and any other round of commentary on the proposed Clean Air Rules.

Sincerely,

  
Steven P. Van Ootegham  
Environmental Engineer

cc: Noel Hingley, VP of Manufacturing  
James Brown, Bogle & Gates

HC 70 Box 304  
Echo, OR 97826  
31 July '93

Dear Mr. Ginsberg,

Five years Oregon DEQ adopted some of the toughest air quality rules in the country — do not allow a new permit program and changes in rules to put our clean air in jeopardy.

If new industrial rules revise and replace existing regulations, and if the Clean Air Act is slanted toward big business with lax rules on monitoring and reporting, we will not be able to maintain the improvement in air quality that we have experienced in Oregon in the past years.

There must be no backsliding from past practices, a minimum of 30 days must be provided in which to request a hearing, DEQ must be pro-active in dealing with the possible incineration of military surplus waste and in Oregon (in my backyard) and DEQ should implement requirements which are beyond the minimum

Federal program in order to cover gaps where needed.

Oregonians value clean air and the higher standards that help keep Oregonians healthy.

Thank you for your concern.

Sincerely,

Johnie Madison

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AIR QUALITY DIVISION  
Dept. Environmental Quality

319 SE Woodside Court  
Madras OR 97741  
July 23, 1993

P7

Andy Ginsberg  
DEQ Air Quality Division  
811 SW Sixth Avenue  
Portland OR 97204

Dear Mr. Ginsberg:

I am writing to voice my concerns on the proposed rule package to implement requirement of Title V and Title III of the Clean Air Act. First and foremost, I feel that the Oregon rules and policies must move forward, and there should be no backsliding from past practices.

My comments on other major points are as follows:

**Public Notice:** A minimum of 30 days after public notice should be provided in which to request a hearing.

**General Permits:** General permits should not be allowed or should at least be confined to small non-hazardous air pollution sources.

**Construction Permits and Operating Permits:** The construction permit process and the operating permit process should be separate and not combined.

**Administrative Amendments:** No group processing of minor permit modifications should be allowed.

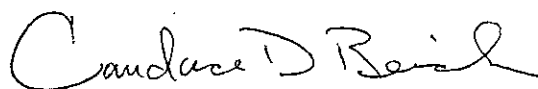
**HAP Controls:** DEQ should implement requirements beyond the minimum federal program where needed to cover gaps. In addition, I support adding the 200 HAP chemicals and retaining the current list. Any compound with a structure chemically related to a HAP should be classified as a HAP until proven otherwise.

**HAP Area Sources:** Area HAP sources should not be exempted from Oregon's existing operating permit program.

**HAP Area Source Categories:** Citizen petitions identifying area source categories should be permitted and if substantiated should require development of standards by DEQ. I strongly urge DEQ to be proactive in dealing with the possible incineration of military surplus nerve gas in Oregon.

Thank you for your consideration on this critically important issue.

Sincerely,

  
Candace D. Reich

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JUL 26 1993  
AIR QUALITY DIVISION  
Dept. Environmental Quality





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P8

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10  
1200 Sixth Avenue  
Seattle, Washington 98101  
September 14, 1993

Reply To  
Attn Of: AT-082

Andy Ginsburg  
Senior Rules and Policy Specialist  
Air Quality Division  
Oregon Department of Environmental  
Quality  
811 SW Sixth Avenue  
Portland, Oregon 97204-1390

Dear Mr. Ginsburg:

Enclosed are EPA's comments on the proposed amendments to several Oregon rules relating to new source review (NSR), prevention of significant deterioration (PSD), new source performance standards (NSPS), and national emission standards for hazardous air pollutants (NESHAP). We have reviewed these proposed amendments with three primary things in mind: (1) whether the PSD and NSR amendments would be approvable as revisions to the Oregon state implementation plan (SIP); whether the amended rules establish adequate authority to implement and enforce the federal NSPS and NESHAP as required by Title V of the federal Clean Air Act; and (3) whether the amended rules are adequate for delegation of authority for enforcing the federal NSPS and NESHAP in the interim period prior to approval of Oregon's Title V program.

In general, the amended rules satisfy the EPA requirements for all three of these programs - SIP, Title V, and delegation. However, EPA does have some concerns and suggestions which are outlined in the enclosure to this letter.

If you have any questions on our comments and suggestions, please give me a call at (206) 553-4253.

Sincerely,

David C. Bray  
Permit Programs Manager

Enclosure

cc: Paul Koprowski

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Administrator may not be delegated to states, even if the federal rules do not explicitly state one way of the other.

8. OAR 340-32-5530 through 340-32-5580 - The same general concerns as expressed in comment #9 above for new source performance standards under OAR 340-25 applies to the specific state emission standards for hazardous air pollutants.
9. 340-32-5560(1)(b) - This provision is different than the federal standard and could affect the applicability of this rule because it uses 4.17 m<sup>3</sup> (1100 gallons) as the cut off for research facilities, whereas 40 CFR 61.60 excludes only facilities greater than 4.07 m<sup>3</sup> (1075 gallons).
10. 340-32-5570(2)(b) - The reference to 40 CFR Part 51 must be changed to Part 61.
11. 340-32-5570(4)(a) [Benzene Transfer Operations] - The cross reference be to paragraphs (A) through (D) rather than (B) through (D) and a paragraph (C), corresponding to 40 CFR 61.300(c) must be added.
12. 340-32-5570(4)(a) [Benzene Waste Operations] - This section must be renumbered as 340-32-5570(5) since there are currently two sections numbered 340-32-5570(4). Second, the cross reference in subparagraph (a) of the Benzene Waste Operations must be changed to subparagraphs (A) and (B) rather than (B) and (C). Finally, the reference to the Solid Waste Disposal Act should include the citation to clarify the reference is to federal and not state law.
13. OAR 340-32-5590 through 5630 - Since Oregon has adopted its own asbestos standards which are different than the EPA standards, the Oregon rules will need to be approved by EPA pursuant to §112(l) before Oregon will be able to include them in Title V permits in lieu of the federal standards. Prior to approval under §112(l), EPA can delegate primary enforcement of the federal standards to Oregon as has been done in the past based on a showing that the state rules are at least as stringent as the federal regulations. Have the Oregon rules been amended to incorporate all of the 1990 revisions to the federal regulations (i.e., survey requirement). EPA has previously provided Oregon with guidance on the changes which needed to be made to ensure that Oregon's rules conform to the 1990 amendments to the asbestos NESHAP.

### Division 33 Licensing and Certification Asbestos Requirements

1. No comments or suggestions on proposed amendments.

**EPA COMMENTS AND SUGGESTIONS ON  
PROPOSED AMENDMENTS TO OAR CHAPTER 340  
DIVISIONS 12, 25, 28, 31, 32, AND 33**

**Division 12 Enforcement Procedures and Civil Penalties**

1. No comments or suggestions on proposed amendments.

**Division 25**

1. OAR 340-25-310 General Provisions - Paragraph 4 can only be rescinded if it is no longer in effect as a practical matter - that is, if all affected sources have demonstrated full compliance with OAR 340-25-305 through 340-25-325. EPA regulations require every new emission standard to include schedules for compliance.
2. OAR 340-25-505 through 805 Standards of Performance for New Stationary Sources - In the past, a state could adopt its own standards of performance for new stationary sources and receive delegation to enforce the federal new source performance standards if the state standards were at least as stringent as the federal standards. Title V of the federal Clean Air Act, however, requires the state to implement and enforce the federal new source performance standards found in 40 CFR Part 60. There is no provision in the Clean Air Act which would allow the state to substitute state standards for the federal standards, even if the state standards are more stringent. Because Oregon cannot directly enforce federal standards, but rather, must adopt and enforce state standards, Oregon must adopt the federal standards without making any substantive changes which could affect their applicability or stringency.
3. OAR 340-25-510 Definitions - Oregon must not adopt any definitions that differ from the federal definitions found in 40 CFR Part 60, Subpart A or any of the subsequent source-category-specific subparts, or add new definitions which may have the effect of changing the federal regulations.
4. OAR 340-25-515 Statement of Policy - Although the Commission or regional authority may apply more stringent standards to sources subject to federal new source performance standards, they should do so by adopting additional state rules or requiring such in a permit. As discussed above, they should not attempt to revise the state's adoption by reference of the federal new source performance standards.
5. OAR 340-25-520 Delegation - As discussed in comment #2 above, if the Lane Regional Air Pollution Authority is a permitting authority for purposes of Title V of the federal Clean Air Act, then it must implement and enforce the federal new source performance standards. It cannot, therefore, implement and enforce its own provisions in place of the federal standards, but can adopt, implement and enforce more stringent standards in addition to the federal standards.

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Dept. Environmental Quality

6. OAR 340-25-525 Applicability - Oregon must take care that it does not change the applicability of the federal new source performance standards by using definitions of terms "construction," "reconstruction," "modification," or "commenced" which differ from those found in 40 CFR Part 60, Subpart A.
7. OAR 340-25-530 General Provisions - Although for purposes of "state" implementation of OAR 340-25-505 through 805, Oregon can replace the term "Administrator" with "Director", for purposes of the federal new source performance standards (40 CFR Part 60), and Title V of the Act, the term Administrator means the Administrator of EPA. Many provision of 40 CFR Part 60 cannot be delegated to states even though they do not specifically indicate that such authority will not be delegated. The decision regarding what responsibilities the Administrator chooses to delegate are set forth in "orders" signed by the Administrator. These orders delegate certain responsibilities to the Regional Administrators as well as provide for further delegation to the EPA Air Division directors and to states. Under those orders, very few of the Administrator's authorities and responsibilities are allowed to be delegated to states.
8. OAR 340-25-535 Federal Regulations Adopted by Reference - The same comment as #7 above applies to paragraphs (2) and (3).
9. OAR 340-25-550 through 735 - Oregon needs to take extreme care that its paraphrasing of applicability provisions and excerpting of definitions does not result in a weakening of the federal regulations that it has adopted by reference. If there are wording differences between the provisions of OAR 340-25-550 through 735 and the federal regulations that could be interpreted to affect the applicability of the Oregon rules, then the Oregon Title V program may not be approvable and delegation of the federal NSPS to Oregon may not be possible. For example, it is not clear that the provision for lignite fired steam generating units in OAR 340-25-550(1)(b) has the same effect as the corresponding federal provision in 40 CFR 60.40(d). The rules should indicate that the language in OAR 340-25-550 through 735 does not affect or change the requirements of the provisions of 40 CFR Part 60 which are adopted by reference in OAR 340-25-535.
10. OAR 340-25-805 - This provision must be changed to indicate that both the federal and state/local rules apply and the source must comply with both. Title V of the Act requires the state to ensure compliance with each applicable requirement, not just the most stringent. Furthermore, the federal regulation applies at all times and the fact that there is a more stringent state standard does not vacate the federal requirement.

### Division 28 Stationary Source Air Pollution Control and Permitting Procedures

1. OAR 340-28-110(2) Actual Emissions - The options of using source-specific allowables and potential to emit in subparagraphs (2)(a)(B) and (C) must be available for all specified time periods, not just the "baseline period". Furthermore, since the baseline period is defined as calendar year 1977 or 1978, why does the proposed rule allow for limits included in permits issued after the baseline period but prior to September 8, 1981?
2. OAR 340-28-110(8) Alternative Method - This definition needs to be clarified to indicate that it does not apply to federal requirements for which only EPA can approve alternative methods.
3. OAR 340-28-110(24) Criteria Pollutant - Depending on the use of this term in the regulations, it may need to be revised to delete "particulate matter" and change "volatile organic compounds" to "volatile organic compounds as an indicator for ozone". Particulate matter is no longer regulated as a criteria pollutant under the federal Clean Air Act but rather as a non-criteria pollutant under §111. If the term "criteria pollutant" is being used in the context of pollutants for which EPA has established ambient air quality standards, then "ozone" must be mentioned rather than just "volatile organic compounds."
4. OAR 340-28-110(38) Equivalent Method - This definition needs to be clarified to indicate that it does not apply to federal requirements for which only EPA can approve equivalent methods.
5. OAR 340-28-110(56) Major Modification - As discussed in detail in previous EPA comments, this definition still needs to be revised substantially to include all of the requirements for creditable emission reductions.
6. OAR 340-28-110(87) Source - Note that the deletion of the reference to the same industrial grouping and two-digit SIC code has the effect of expanding the applicability of this definition beyond that required by EPA regulations. In doing so, it also opens up netting opportunities beyond that allowed by EPA regulations. Oregon will need to demonstrate that the effect of this change will not result in a state PSD/NSR program which is less stringent than that required by the Clean Air Act and EPA regulations. However, since the definition of "major source" for purposes of the Title V program still retains a requirement for single major industrial grouping, it probably can be considered to be equivalent to the EPA requirements.

7. OAR 340-28-110(102) Volatile Organic Compound - This definition still does not include all of the provisions of the EPA definition and therefore does not clearly indicate how the exempted compounds will be measured in order to exclude them for compliance determinations (40 CFR 51.100(s)(2) and (3)).

8. OAR 340-28-640 Additional Control Requirements for Stationary Sources of Air Contaminants - The word "may" in subsections (1) through (4) should be changed to "shall" The lead in to this section and subsection (5) both use "shall."

9. OAR 340-28-800 - The requirement that the notice be "in writing" needs to be reinstated since it was dropped when notice requirement was moved from subsection (b) to the lead in sentence.

10. OAR 340-28-1100(3) - As discussed in comments #2 and 4 above, Oregon cannot necessarily grant approval for changes in monitoring methods, or the use of alternative or equivalent methods for federal requirements where only EPA can approve such.

11. OAR 340-28-1740(3) - This provision is unclear as to whether the source must simply submit an application for an ACDP prior to the time the source would be required to submit a Title V permit application or if the source must actually obtain an ACDP (or modification to an existing ACDP) before the source would be required to submit a Title V permit application. Under the federal Clean Air Act, any source which does not have federally enforceable conditions limiting its potential to emit in effect by the time it is required to submit a Title V permit application will be subject to federal enforcement action for violations of the Title V requirement of operating without a Title V permit.

12. OAR 340-28-1930(7) - Shouldn't the special requirement for the Klamath Falls Urban Growth Area refer to PM10 emissions and not particulate matter emissions? Or does this exemption only apply with respect to the state ambient standard for total suspended particulate and not to the federal and state ambient standards for PM10?

13. OAR 340-28-1970(4) - As indicated in previous comments, the new provisions of §189(e) of the federal Clean Air Act allows emission offsets for secondary particulates and precursor pollutants only in areas where precursor pollutants are also used to define major sources and major modifications.

#### Division 31 Air Pollution Control Standards for Air Purity and Quality

1. No comments or suggestions on proposed amendments.

### Division 32 Hazardous Air Pollutants

1. OAR 340-32-105 General Provisions - The phrase "subpart of 40 CFR Parts 61 and 63" should be changed to "subpart of 40 CFR Part 61 or Part 63". A particular method will not be set forth in both Part 61 and 63 which is the meaning of the inclusive term "and."
2. OAR 340-32-110 Delegation of Authority - Note that the Lane Regional Air Pollution Authority may not include its own provisions in a Title V permit in lieu of the federal national emission standards for hazardous air pollutants or the EPA-approved OAR requirements unless EPA has also approved the Lane Regional regulations under the provisions of §112(1).
3. OAR 340-32-120 Definitions - Unless and until Oregon's hazardous air pollutant rules are approved by EPA pursuant to §112(1) of the federal Clean Air Act, Oregon must ensure that its definitions are adequate to include and enforce the national standards for hazardous air pollutants in Title V permits. Any variation in wording must not change the applicability or the requirements of the federal rules.
4. OAR 340-32-120(10) and (16) - Adding the term "stationary" to these definitions is confusing because some of the sections cross-referenced continue to use the term "source" and not "stationary source". Furthermore, asbestos abatement projects are considered to the "stationary sources" under the federal Clean Air Act or EPA would not be able to regulated them under §112. Rather than trying to exempt these projects from the definition of stationary source, we suggest that the definition simply exempt these projects from the cross-referenced requirements.
5. OAR 340-32-120(31) - The term "buy" needs to be changed to "but."
6. OAR 340-32-220 Permit Application and 340-32-240 Permit to Operate - What sources are subject to OAR 340-32-400 through 340-32-4500? These sections are referenced here but are not included in the draft of OAR 340-32.
7. OAR 340-32-5520 Federal Regulations Adopted by Reference - As discussed in comment #2 above, unless and until Oregon's rules are approved by EPA under §112(1), Oregon needs to have the authority to include and enforce the federal standards. Oregon must ensure that any of the changes provided in OAR 340-32-5530 through 340-32-5630 and section (2) do not interfere with Oregon's ability to include the exact requirements of the federal rule in a Title V permit. Second, note that Oregon has not adopted subpart J by reference even though the Oregon has included the Subpart J emission standards for benzene in OAR 340-32-5570(1). Also, as discussed above with respect to the new source performance standards, certain authorities of the

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10  
1200 Sixth Avenue  
Seattle, Washington 98101  
July 8, 1993

Reply To  
Attn Of: AT-082

Kevin Downing, Presiding Officer  
Federal Operating Permit Program Hearings  
Air Quality Division  
Oregon Department of Environmental  
Quality  
811 SW Sixth Avenue  
Portland, Oregon 97204-1390

RECEIVED  
JUL 12 1993  
AIR QUALITY DIVISION  
Dept. Environmental Quality

Dear Mr. Downing:

Enclosed are EPA Region 10's comments and suggestions on the proposed Division 28 "Stationary Source Air Pollution Control and Permitting Procedures" for the public hearing record. Our review has identified some concerns which we feel need to be addressed before these rules would fully meet EPA requirements for Title V operating permit programs and Title I (state implementation plans) requirements for new source permitting and emissions trading programs. However, in general, we feel that the proposed rules fulfill most of the requirements of the Title I and Title V stationary source permitting requirements. Please be aware, however, that our review has been limited to just these proposed regulations, and that we have not yet had the opportunity to review other pertinent Oregon rules such as the state's administrative procedures and confidential business information rules.

In addition, we have not done a comprehensive review of the proposed Division 32 "Hazardous Air Pollutants" since EPA has not yet promulgated most of the federal regulations to implement §112 nor any provisions which would allow for approval of state programs. We have noted, however, one comment on the proposed Division 32.

I hope that you find our comments and suggestions to be useful in finalizing the new Division 28. If you have any questions on concerns or suggestions, please give me a call at (206) 553-4253 or contact Anne Dalrymple at (206) 553-0199.

Sincerely,

David C. Bray  
Permit Programs Manager

Enclosure

cc: Paul Koprowski, OOO



**EPA COMMENTS AND SUGGESTIONS ON  
PROPOSED OREGON DIVISION 28 "STATIONARY SOURCE  
AIR POLLUTION CONTROL AND PERMITTING PROCEDURES"**

1. Pages A-3 and A-4 - The definition of "aggregate insignificant emissions" (OAR 340-28-110(6)) needs to be expanded to include the non-criteria pollutants regulated under Section 111 of the Act, the ozone-depleting substances regulated under Title VI of the Act, and pollutants regulated under Section 112(r) of the Act (i.e., all regulated pollutants as that term is defined in OAR 340-28-110(76)).
2. Page A-4 - In the definition of "applicable requirement" (OAR 340-28-110(9)), the word "issued" should be added before the word "before" in subsections (c) and (d).
3. Page A-6 - The definition of "categorically insignificant activity" (OAR 340-28-110(16)) should be revised to clarify that an activity is insignificant only if it is not in the same industrial grouping as other pollutant emitting activities at the facility.
4. Page A-14 - In the definition of "potential to emit," the third sentence should be revised to read: "This definition does not alter or affect the use of this term ..."
5. Page A-17 - The definition of "significant emission rate" (OAR 340-28-110(83)) does not include all of the pollutants currently regulated under EPA's PSD regulations in 40 CFR 51.166(b) (e.g., pollutants regulated under the NSPS for municipal waste combustors) and will not be approvable as proposed.
6. Page A-17 - Note that the definition of "significant ambient air quality impact" (OAR 340-28-110(83)) does not include an entry for lead.
7. Pages A-18 and A-19 - The definitions of "source" (OAR 340-28-110(86)) and "stationary source" (OAR 340-28-110(90)) need to cover the two concepts of a "plant" and "individual parts of a plant". That is, for purposes of the major source programs (PSD, Part D NSR, Title V) the Oregon rules need a term which covers a plant wide concept (e.g., Definition (86)) and for purposes of other programs (minor source review, NSPS, NESHAP) a term which covers individual buildings, structures, facilities, and installations (e.g., Definition (90)). However, Definition (90) incorrectly indicates that it is applicable to the Title V program. Rather, Definition (86) must be used for determining whether a source is major for purposes of Title V as well as for NSR. Definition (86) should be changed so that it only defines the term "source" and the term "source" used throughout these regulations wherever the concept of a "major" source is needed.
8. Page A-19 - The definition of "synthetic minor source" (OAR 340-28-110(92)) should be revised to add the term "federally enforceable" before the word "physical".

9. Page A-19 - EPA's regulations do not include a definition of the term "Title I modification". The proposed Oregon definition (OAR 340-28-110(93)) does not include modifications covered by Section 110(a)(2)(C) of the Act. While the Oregon proposed definition is consistent with previous EPA policy statements, this issue is under litigation and reconsideration by EPA. By excluding modifications subject to Oregon's SIP-approved Air Contaminant Discharge Permit Rules and Notice of Construction Rules, this provision may not be approvable.
10. Page A-20 - The definition for "volatile organic compounds" (OAR 340-28-110(99)) does not comply with the EPA definition in 40 CFR 51.100 and will not be approvable.
11. General - Several definitions and other provisions of the New Source Review Rules haven't been updated to remedy problems previously identified by EPA (e.g., definition of major modification).
12. Page A-26 - The sentence added to the end of OAR 340-28-820(6) should be made into a separate subsection.
13. Pages A-34 to A-41 - If Oregon is relying on the Excess Emissions and Emergency Provision (OAR 340-28-1400 to -1460) to satisfy the requirements of § 70.6(a)(3)(iii)(B), the reporting requirements need to be revised to include reporting of violations of all permit terms, not just excess emissions, and to include reporting of all information required in § 70.6(a)(3)(iii)(B). In addition, the structure of OAR 340-28-1430 is confusing. The section could be clarified by combining subsections (2) and (3) into a single subsection 2 beginning with a lead in "In the case of all other upsets and breakdowns:" Former subsections (2) and (3) could then be renumbered (A) and (B). OAR 340-28-1430(1)(a) must also be clarified to require written notice and the cross-reference in OAR 340-28-1430(1)(b) should be changed to OAR 340-28-1460.  
The treatment of the emergency provision of Section 70.6(g) is confusing because a source must consult 4 separate sections, the definition of "emergency," OAR 340-28-1430, OAR 340-28-1450 and OAR 340-28-1460 to determine if the source qualifies for the emergency provision. If this section is not reorganized, OAR 340-28-1460(a) should be revised to refer to OAR 340-28-1430 in addition to 340-28-1450.
14. Pages A-45 to A-46 - Sources wishing to be exempt from Title V programs as "synthetic minor sources" must receive their ACDP by the date they would otherwise be required to submit a timely application. Applying for an ACDP permit or permit modification is not sufficient to relieve a source of liability for failing to apply for a Title V permit. As such, OAR 340-28-1740(3) needs to be revised to indicate that the source shall obtain an ACDP or modification to an ACDP.

15. Page A-64 - A few words appear to be missing from the first sentence in OAR 340-28-1910(2)(d). Should the sentence read: "Approval to construct a source under an ACDP...?"

16. Page A-65 - The reference to the "enhanced process" in OAR 340-28-1910(3)(b)(C) should be clarified to refer to the "enhanced New Source Review process, including the external review procedures required under OAR 340-28-2280 and OAR 340-28-2300" or alternatively cross-reference OAR 340-28-1910(1)(g).

17. Page A-68 - The exemption in OAR 340-28-1940(3)(a) is too broad and may only exempt "non-PSD" sources from the PSD requirements (OAR 340-28-1940). For example, major sources in nonattainment areas which have potential emissions less than those specified in paragraph (3)(a)(B) must still be subject to the requirements of OAR 340-28-1930. Also, major sources below the size thresholds in paragraph (3)(a)(B) should be eligible to bank emission reduction credits under OAR 340-28-1980.

18. Page A-73 - The exemption for resource recovery facilities is contrary to the requirements of Part D of the Act (§§172 and 173) and EPA's regulations in 40 CFR 51.165 and is not approvable.

19. Page A-80 - The first sentence of OAR 340-28-2110(2) is confusing. The sentence could be clarified by rewriting it to provide: "A source with a federal operating permit whose potential to emit later falls below the applicable major source emission rate threshold, and is not otherwise required to have a federal operating permit, may submit a request for revocation of the federal operating permit."

20. Page A-82 - An ACDP issued under the approved SIP NSR rules cannot change the explicit requirements of a Title V permit unless the Title V permit is revised using to appropriate procedures. As such, the new OAR 340-28-2110(7) is not approvable as drafted. Note that this is also in conflict with the requirement of OAR 340-28-2120(1)(a)(B).

21. Page A-82 - The requirements for a timely application (OAR 340-28-2120(a)(A)) need to cover sources which become subject at a date sometime after the effective date of the program but which may have been in operation as of the effective date of the program. For example, sources may become subject to the Title V program when EPA promulgates a MACT standards for that source category. Sources may become subject through an operational change that results in the emission of hazardous air pollutants not previously emitted. Or an existing minor source may expand and become a major source. Such sources cannot submit an application within 12 months after the effective date of the program because they are not subject to the program at that time.

22. Page A-92 - The phrase "or if determined by the Department to be necessary to determine compliance with applicable requirements" must be added to OAR 340-28-2130(1)(d) to ensure that the Department can fulfill its obligation to "fill the gaps" of applicable requirements that do not have sufficient monitoring requirements.
23. Page A-96 - Several minor changes need to be made to the General Permits provision (OAR 340-28-2170). First, the regulation must be revised to require that general permits shall identify criteria by which sources may qualify for the general permit and to require that the permitting authority grant the terms and conditions of the general permit to sources that qualify. Second, in subsection 2(c), it is unclear what is meant by the term "problem source."
24. Page A-98 - The clause "or such earlier time as agreed to with the Department" which has been added to OAR 340-28-2200(1)(a)(E) is not approvable. EPA does not have the authority to shorten its statutory review period and thereby effectively change the date for citizen petitions to EPA. The same change was made to OAR 340-28-2300(3)].
25. Page A-100 - In OAR 340-28-2220(2)(a)(F), the phrase "insignificant changes of emissions" should be replaced with "changes less than the significant emission rates in OAR 340-28-110(83) and the de minimis levels in OAR 340-32-4500, Table 3". Also, the reference for "insignificant changes" should be to OAR 340-28-110(49).
26. Page A-101 - In OAR 340-28-2220(2)(b), the phrase "under OAR 340-28-110(49)" should be added to the end of the first sentence. In addition, in subsection (2)(c), the phrase "insignificant" must be deleted because a source must keep an on-site record of all off-permit changes resulting in emissions, not just those resulting in insignificant emissions.
27. Page A-102 - OAR 340-28-2230(1)(j) is not approvable since neither EPA nor the public had an opportunity in the Title V issuance process to review or object to state-only provisions. As such, it cannot be incorporated into the Title V permit through the administrative permit amendment process.
28. Page A-108 - Note that although EPA has previously approved Oregon's provisions for public hearings as part of the SIP with respect to the PSD program, we are not certain whether or not this will be approvable under the requirements of Title V. We intend to support Oregon's "ten person" provision as meeting the requirements when we send the Oregon submittal to Headquarters for processing.

29. Page A-109 - If a party, including the applicant, desiring judicial review of a permit action in state court is first required to appeal the permit to an administrative agency under the control of the permitting authority, the administrative appeal process must be completed within the time period allowed under Part 70 for the permitting authority to take final action. Furthermore, administrative appeals cannot automatically stay the effect of the permit.

OAR 340-28-2290 provides the opportunity for the applicant to appeal the permit to the Oregon Environmental Quality Commission. EPA draft guidance requires that state program rules must provide for a cause of action for failure to take final action if all administrative appeals have not been concluded by the specified deadlines. According to draft EPA guidance, the deadlines for "final permit action" depend on whether the permitting authority retains legal control over the outcome of the final permit action or whether an independent reviewing body has control of the final permit action after an administrative appeal. The draft EPA guidance states that if the permitting authority retains legal control over the outcome of the final permit action after the conclusion of an administrative appeal, the permit program must provide that all issuance and appeals procedures (including the "final permit action" by the permitting authority) shall be completed within the deadlines for final action required by Part 70 and Title V. EPA draft guidance also indicates that if the permitting authority does not retain legal control over the outcome of the final permit action after an administrative appeal is taken, the permit program must provide that the permitting authority's issuance decisions are only subject to Title V and Part 70 deadlines. Note that this same issue arises for the deadlines found at page A-107 for reopenings, page A-102 for administrative permit amendments, and page A-105 for minor permit modifications.

OAR 340-28-2290 also states "Only those parts of the permit being challenged shall be reexamined. All other permit requirements shall continue to be valid." These provisions imply a "stay" of the contested permit conditions which appears to be an **automatic** stay, because the rules do not require a showing of the appropriateness of the permit contest to render the challenged portions of the permit ineffective or unenforceable. Based on draft EPA guidance, we suggest that this rule should be changed to require at least some showing of harm before the contested condition is rendered ineffective. A showing of harm would discourage frivolous challenges intended to delay the permit's effectiveness. The OAQPS Operating Permits Task Force has discussed revising the Part 70 rules to prohibit automatic stays and to allow only stays which meet the "irreparable harm" and "likelihood of success" standard applied for temporary restraining orders.

30. Page A-110 - The clause "or such earlier time as agreed to by EPA" which has been added to OAR 340-28-2300(3)(a) is not approvable. EPA does not have the authority to shorten its statutory review period and thereby effectively change the date for citizen petitions to EPA.

**EPA COMMENTS AND CONCERNS ON THE  
DRAFT DIVISION 32 HAZARDOUS AIR POLLUTANTS**

1. Page B-8 - The provisions for amending the list of hazardous air pollutants (OAR 340-32-140) need to include provisions for adding new pollutants which EPA has added pursuant to §112(b) of the Act as well as the authority to delete pollutants which EPA has deleted. However, this provision cannot authorize the Department to delete a pollutant which is on the list established pursuant to §112(b) of the Clean Air Act.

P21  
FOP 2

**Tektronix**

July 9, 1993

Oregon Department of Environmental Quality  
Air Quality Division  
811 S.W. Sixth Ave.  
Portland, OR 97204

RECEIVED  
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AIR QUALITY DIVISION  
Dept. Environmental Quality

Thank you for the opportunity to comment on the Proposed Rules To Implement the Federal Operating Permit and the Hazardous Air Pollutant Programs Required by the Clean Air Act.

Tektronix, Inc. is a leading manufacturer of electronic products in the areas of test and measurement equipment, computer graphics and communications. Tektronix is headquartered in Wilsonville, Oregon with most manufacturing operations located in Oregon. At the current time several Tektronix facilities have Air Contaminant Discharge Permits.

Tektronix operates in the global market place in a technologically dynamic industry - electronics. Rapid response to changing technology and market demands is a necessity for survival in the electronics field. In addition Tektronix has a strong history of environmental concern and protection. Tektronix believes that a successful permit program must accommodate both the needs of business and the needs of the environmental by blending of these issues dynamic technology, dynamic markets, and environmental soundness.

Tektronix sees synthetic minor status as a means of controlling emissions in a manner that makes sense for a given business. Enforceable limitations with monitoring and reporting of those conditions provides the Department with adequate visibility and enforcement authority while reducing the administrative burden and allowing the Department to focus on truly major sources. Likewise the ability to propose the type of limitation, allows a business the flexibility to select a workable method of limiting emissions while reducing the administrative burden. This is particularly critical for sources which have multiple dissimilar operations operating in a batch mode.

In such cases, capacity (and thus potential to emit) is substantially greater than routine emissions. Synthetic minor status provides such sources with an incentive to keep emissions low thereby avoiding the burden of becoming a federal operating permit program (FOPP) source. This effect will become more pronounced over time as business increases yet the source remains limited. We believe the Department should encourage sources to become synthetic minors as an effective means of reducing emissions.

## SYNTHETIC MINORS

Tektronix desires to become a synthetic minor source. However the balance between incentives vs. disincentives will determine whether this is feasible. We have reviewed the rules with this approach in mind, and offer the following comments and questions.

If a source holding an ACDP elects to become a synthetic minor, when is the application due?

During the course of preparing a FOPP application, a source may discover that it is possible to become a synthetic minor. Due to the complexity of the regulation, it is unlikely that this determination can be made much earlier, particularly in a dynamic industry such as electronics. The rules specifically allow an existing source to apply to become a synthetic minor on any date prior to that on which a FOPP application is due [340-28-1740 (3)]. However the Department has stated that a source must hold an ACDP containing the physical or operational limitation at the time its FOPP application is due. This interpretation seems unnecessarily restrictive. We support the timing provided in 340-28-1740 (3).

If a ACDP source has become a synthetic minor and projects a need to become a FOPP source, when is the application due?  
Can the source continue to operate until final application action? What if the source becomes "major" through a change in the program rather than a change in the source?

340-28-2120 (1)(a) does not address the case of a source which is in operation as of the effective date of the program, yet does not need a FOPP permit on that date. This would apply to sources who have a synthetic minor permit and wish to remove the limitation [see 340-28-1740 (5) and 340-28-2110 (3)(c)], small sources which desire to add additional capacity which will then make them a major source, or sources which are minor and later become major due to a change in the program [for example a new requirement is issued under section 111 of the FCAA, 340-28-2110 (1)(b)]. None of these cases are addressed by the clause "source that is not in operation as of the



effective date of the federal operating permit program".

If a source applies to change from a synthetic minor to a FOPP permit, how long must the source wait to increase the operations? What is the maximum and the minimum time?

Dynamic industries will be faced with new technologies demanded by the market place that could not be anticipated at the time of permit application. Procedures should be streamlined so that such businesses can respond to the market in a timely fashion while meeting the program requirements. The ability to change rapidly (particularly if capacity already exists) may be the deciding factor in a company's choice on becoming a synthetic minor or becoming a FOPP. As discussed above, the Department should encourage synthetic minor status.

If a change at a source is subject to NSR, and the source obtains a construction permit, the source can begin operation upon completion of construction and file a FOPP application within 12 months after beginning operation. The rules do not address construction or modifications which are not major. Sources with small changes which force them into the FOPP should be allowed at least the same option, obtaining construction approval and making the change immediately then filing a FOPP application within one year after beginning operation under the construction approval.

Synthetic minor sources who exceed the limitation on potential to emit are in violation of their permit, but unless they exceed it to a level which would be major, they can not be in violation of 340-28-2110 (1)(a). Thus 340-28-1740 (6) is unnecessarily harsh and more restrictive than required by federal law. It should be deleted. Adequate enforcement authority remains for the Department.

This provision creates a special penalty for sources who choose to become synthetic minors. Since the Department has adequate enforcement authority, there is no need for a special penalty and it may discourage sources from attempting to become synthetic minors.

Please clarify whether a synthetic minor is considered a FOPP source for purposes of 340-28-2200 (2)(a).

## DEFINITIONS

Changes in definitions of existing terms made to accommodate new FCAA requirements, have the effect of changing the nature and scope of existing rules beyond that which is necessary to implement the federal program. Likewise the failure to amend existing definitions to rule out new program elements to which they do not apply changing scope and nature of those regulation beyond that envisioned by the FCAA. Careful attention must be made to all terms which are used in existing rules to insure that they amended as necessary to avoid undue expansion of the application. Where the Department clearly intends to change the applicability of existing regulations, the Department should adequately explain the impact to the regulated community and insure that such changes are authorized under state law. Some examples follow.

340-28-110 (55) and (56)

"Major modification" and "major source" [340-28-110 (55) and (56)] have historically referred to the criteria pollutants and NESHAP sources and are used for purposes of NSR. In renumbering these definitions without change, the Department has effectively, and probably inadvertently, created a significant new regulation expanding the scope of NSR regulations. Since the revised Clean Air Act contains provisions for hazardous air pollutants not envisioned in the creation of NSR rules, the wording "for any pollutant subject to regulation under the Act" [(55)] and "any pollutant regulated under the Clean Air Act at a Significant Emission Rate as defined in this rule" [(56)] effectively expands NSR to all pollutants listed pursuant to Title III of the act. This is not the intent of the federal law which makes clear distinctions between Title I sources and modifications which are subject to NSR and the Title III program. We suggest that both definitions be modified to exempt HAP emissions. Possible wording would be "any pollutant subject to regulation under Title I of the FCAA."

Question: "Major source under section 112 of the Act" [340-28-110 (56)(A)(i)] discusses "any HAP which has been listed pursuant to section 112(b) of the Act". Since Oregon is reserving the right to add additional compounds to the federal list, does this wording expand the definition of "major source" to include Oregon only HAP? We believe that such an expansion would be significantly more stringent than federal law and that the wording should reflect that only HAP listed at the federal level are included.

340-28-110 (83)

"Significant emission rate" [340-28-110 (83)] likewise has a

historical context intended to apply to NSR. Unfortunately (b) expands the list of pollutants and sets rates which are unknown to the regulated community, thus making it impossible for anyone to comply. Since the FCAA specifically exempts HAP emissions from NSR, this definition makes the Oregon NSR significantly more stringent than the federal requirements. We suggest that (b) be dropped entirely from this definition. If the Department feels the need exists to establish significant emission rates for other pollutants, then the Department should formalize the process through notice and rulemaking. The application of this definition to 340-28-1710 (1) should also be altered to read "...which exceed significant emission rates established by the Department pursuant to rule."

340-28-110 (64)

"Permit" has been amended to include FOPP permits as well as the traditional ACDP. This change makes the use of the term in sections 340-28-1700 through 1790 broader than intended. For example 340-28-1750 (1) would impose the existing fee requirements upon FOPP sources, a procedure that is unnecessary since FOPP sources have a separate fee schedule. This would also unnecessarily complicate the bookkeeping required by the federal regulations to prove that FOPP permit fees are collected solely from FOPP sources and used solely for FOPP requirements. The definition should be amended to specify which sections use which definition, for example "permit" as used in sections 340-28-1700 through 340-28-1790 shall mean ACDP". Otherwise changes must be made in each individual section such as Section 340-28-1750 (1) should be revised to read "All persons required to obtain an ACDP permit shall...."

340-28-110 (76)

"Regulated air pollutant" has been expanded to include (F) which is not included in the federal definition. This expansion of the definition is not in keeping with the stringency provisions of Oregon law. 340-28-110 (76)(a)(F) should be deleted entirely.

340-28-110 (36)

"Emission unit" has been greatly clarified from the previous definition. However it does reference "regulated pollutant" and pollutants listed under section 112(b). Given 340-28-110 (76)(a)(F) should be essentially similar but not identical to section 112(b) this creates confusion. We suggest that 340-28-110 (76)(a)(F) be deleted entirely.

## Table 4, Air Contaminant Source # 61

This description is confusing and should be clarified to specify which contaminants it applies to, such as "...or 10 or more tons/yr of any single air contaminant listed in Table 2."

340-208-110 (16)

We offer the following suggestions for items to be added to the list of "categorically insignificant activity"

all analytical laboratories unless that is the major industrial group; facility maintenance activities (including reroofing, painting and remodeling, paving and stripping of parking lots, etc.); use of municipal water; emergency response; vents on covered storage containers containing less than 20,000 gallons; use as fuel in motorized material handling equipment; firing of ceramic materials in a kiln; equipment/instrument calibration activities; personal care activities (including medical services); research and development activities performed in laboratories; industrial wastewater treatment activities;

## PLANT SITE EMISSION LIMITS

The addition of HAP to federal requirements changes the application of all existing rules which apply to sources emitting pollutants subject to federal requirements. In order to preserve the rules in the context in which they are intended to apply, the following changes are necessary in regard to PSEL. There may be other references as well.

340-28-1010

Since PSEL do not apply to HAP, 340-28-1010 (1) should be amended to read "All sources subject to regular permit requirements shall be subject to PSEL's for all federal and state regulated pollutants except as provided in OAR 340-28-1050".

340-28-1030

By exempting HAP from PSEL's, the regulations effectively prohibit the use of alternative emission controls for HAP. Nothing in the federal regulations would prevent such a use provided specific requirements are met. 340-28-1030 (2) should be amended to read "net emissions for each pollutant are not increased above the PSEL required by 340-28-1010." 340-

28-1030 (6) should be amended to read "Specific mass emission limits are established for each emission unit involved such that compliance with the PSEL can be readily determined."

340-28-1050

As worded 340-28-1050, Plant Site Emission Limits for Hazardous Air Pollutants, exempts only section 112(b) and OAR 340-32-130 pollutants. We believe that other pollutants regulated under section 112 should also be exempted from PSEL requirements. In particular, PSEL's are inappropriate for Section 112(r) pollutants, since they are regulated solely on their accidental release potential, and not their routine emissions. We suggest the wording of 340-28-1050 (1) be revised to replace the reference to "112(b)" with simply "112".

340-28-2120 (3)(c)(C)

The federal program does not require that PSELs be established for 112(r) emissions. This requirement makes the FOPP program as proposed more stringent than the federal requirements. Delete the wording "and to establish PSELs for all regulated air pollutants."

## FOPP PERMIT APPLICATION REQUIREMENTS

In keeping with Oregon law, the requirements of the FOPP application should be limited to the information required under the federal program. As such the following sections should be modified to match the federal requirement.

340-28-2120 (3)(c)(C)

Delete "...and to establish PSELs for all regulated air pollutants."

340-28-2120 (3)(c)(C)(i)

This entire section with its presumption of hourly periods is substantially more stringent than the federal requirements. The reporting burden imposed on both the applicant and the Department by this section is unjustified.

340-28-2120 (3)(c)(C)(ii)

As it stands this section makes no sense. It should be deleted entirely.

340-28-2120 (3)(c)(D)

This is not required and is substantially more stringent than federal requirements. It should be deleted entirely.

340-28-2120 (3)(c)(F)

Estimated efficiency of the control equipment is not required and should be optional.

340-28-2120 (3)(d)

This requirement is excessive. Use of a UTM location for all emission units is not always appropriate.

340-28-2120 (3)(f)

These requirements apply only to sources which are not in compliance. Extension of this requirement to sources which are in compliance is more stringent than the federal regulations and should be deleted.

340-28-2120 (3)(i)

The Department already has this information on file. In the interests of preserving paper while providing clarity, only those sections containing conditions which are no longer applicable should be required.

340-28-2120 (3)(j)

This requirement does not make sense except in the context of permit renewals with 502(b)(10) changes. It should be clarified as only applicable to renewals.

340-28-2130 (c)(A)

These deadlines should be subject to Department discretion for those sources whose operation is not compatible with these dates and time periods.

**FOPP - OPERATIONAL FLEXIBILITY 340-28-2220**

Operational flexibility is a major concern for industries especially technologically dynamic industries who must respond quickly to changing technologies or go out of business. As written, these provisions seem unnecessarily burdensome and paperwork intensive, thereby reducing the flexibility included in the federal program.

## 340-28-2220 (2)(b)(C)

What is the meaning of the phrase "within the PSEL"? The concept of the PSEL is to lump together multiple similar emissions at the site and to treat them as a single emission for compliance purposes. Requirements to quantify changes in emissions under the PSEL is not in keeping with the purpose and method of establishing the PSEL. This section should be dropped.

## 340-28-2220 (2)(c)

What is the purpose of a requirement to record insignificant changes in emissions? By their very nature they are insignificant and should not be subject to any requirement. There is no federal requirement that these activities be quantified in any way. This has the potential of overwhelming both the source and the Department in irrelevant paperwork given the vast number of insignificant changes that occur daily at any high technology facility. This requirement should be deleted.

## 340-28-2220 (3)(b)(C)

see discussion of (2)(c) above.

## 340-28-2260 (4)

It is possible for sources to have increases in HAP emissions greater than de minimis without becoming a major source of HAP if the de minimis is less than 10 tons. This requirement is overly restrictive for FOPP sources which are not major sources of HAP. It should be modified to read "Modifications at sources which are major sources of HAP under 340-28-110 (56)(b)(A)(i) that cause increase of emissions ..."

**DIVISION 32****DEFINITIONS**

## 340-32-110 (14)

"Emissions unit" is identical to 340-28-110 (36). While this is good, many of the terms used in the definition are not defined in this section leaving some question as to the reason. Either the definitions should be repeated or this definition should reference the section 28 definition.

## 340-32-110 (23)

"Hazardous air pollutant" should not include pollutants regulated only in Oregon within this definition. Doing so carries over to other definitions such as "major source" 340-32-110 (25), MACT 340-32-110 (26), "modification" 340-32-110 (27), and others, vastly expanding the scope of the regulations beyond that envisioned in the federal regulation. We suggest deleting "...or determined by the commissions to cause, or reasonably anticipated to cause, adverse effects to human health or the environment."

## 340-32-110 (25)

"Major source" should reference the full federal definition under section 112. As worded this language expands the scope of the program beyond the federal program because 340-32-110 (32) expands the definition of HAP beyond the federal scope. It should read as stated in the proposed 340-28-110 (56)(b)(A).

## 340-32-110 (26)

"MACT" is affected by the definition of hazardous air pollutant in 340-32-110 (23). As proposed, Oregon may be required to impose case-by-case MACT on sources of Oregon only pollutants.

## 340-32-110 (27)

"Modification" is affected by the definition of hazardous air pollutant in 340-32-110 (23).



## AMENDING THE LIST OF HAZARDOUS AIR POLLUTANTS 340-32-140

As described, the program does not allow the Commission to delete an Oregon only item on the list in light of new scientific information. In addition, to save Department resources by avoiding duplication of EPA evaluations we suggest that the protection be restricted to Oregon health and environment. Thus (3) should be reworded. "The Commission shall amend the HAP list if it finds there is a scientifically defensible need to add substances to protect the public health or environment in Oregon or if a chemical is deleted from the list by the EPA or in light of new scientific information the Commission find that the substance can be deleted without causing harm to public health or the environment in Oregon".

## PERMIT APPLICATION REQUIREMENTS - APPLICABILITY

### 340-32-210 (2)(a)

This should be restricted to emissions which exceed the de minimis amounts or the significant emission rates and are not authorized under an existing permit. Failure to make some minimum cut-off will generate lots of unnecessary paperwork and divert the Departments attention from truly significant emissions. We suggest that a reasonable cut-off be established with the provisions that it can be lowered at a future time if needed. This will allow the program to get started by focusing on the most critical issues and enhance the program as necessary and supportable.

### 340-32-210 (2)(b)

This unnecessarily restricts the activities of permitted sources to make changes allowed under their permit. Specifically a major source of HAP which proposed to modify an emission unit must notify the Department even if the unit involved is not a HAP emission unit or if the change is de minimis in nature.

## PERMIT APPLICATION REQUIREMENTS - PERMIT TO OPERATE

The following comments refer to 340-32-240 (2). This section expands the requirements of the FOPP beyond that required by the federal law in violation of the stringency provision of Oregon law. Requirements unique to FOPP sources and not required under federal law can not be included in a

FOPP permit application. Section (b) and (c) should be deleted entirely. In addition, it is simply bad public policy to impose an expensive administrative burden on the regulated community without justification of environmental benefit or consideration of more appropriate methods.

Imposes an administrative burden solely in Oregon, making Oregon businesses uncompetitive both nationally and internationally with no environmental benefit.

These requirements pose a substantial administrative burden on sources located in Oregon. For complex and dynamic industries such as electronics, this burden is impossible to meet. All calculation must be performed twice, once for actual emissions and once for potential emissions. Trace amounts of chemicals must be tracked and accounted for even though it can be estimated at the outset that the quantities involved are insignificant and will not require controls. This does not apply just to chemicals which are used as pure chemicals, but to every brand name mixture and special formulation which contains those chemicals. Since each mixture will contain different ingredients in different concentrations, and since each mixture may be purchased in multiple container sizes, the calculations involved are complicated just to determine the amount of chemical involved at the site. Then this information must be correlated with each application of each mixture to determine whether there is a potential for emission. If an emission should occur, then further calculations must be done to quantify the emissions. Tektronix, Inc. has one of the most sophisticated chemical tracking systems in Oregon yet could not provide this information without several thousand man-hours of engineering labor and a new specialized million dollar computer system. It would take a substantial amount of time to program, load data, and run such a program, if it can even be done at level which provides meaningful data. Yet from information already collected under other programs, it is obvious that there is little risk associated with our use of these chemicals. Such an administrative burden is unjustifiable.

This information is not currently required under any regulation and is not justifiable for Oregon FOPP. Existing reporting under other programs is sufficient to satisfy the Department's initial needs. Dollars spent for reporting are unavailable for actual emission reduction.

Although the listed chemicals are already regulated, they are regulated for different purposes with different calculation criteria.

SARA Title III Section 313 reports list emissions of any chemical used at a

340-32-500 (4) Residual emissions.

The last sentence in (a) should clearly apply to the entire section 4. To make this clear, the section should be renumbered with this sentence listed as (a) and the current (a),(b),(c) renumbered as (A),(B),(C).

#### TYPOGRAPHICAL ERRORS

340-28-1750 (13) The last part of the section repeats "on or before the due date of the annual compliance determination fee."

340-28-1940 (3)(b) the reference to the Air Contaminant Discharge Permits is not abbreviated to ACDP, the convention used elsewhere in the rules.

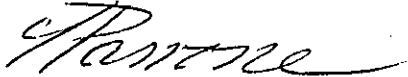
340-28-2220 (2)(a)(F) the reference to OAR 340-28-110 (50) should probably be (49).

340-32-120 (11) delete the words "of the portion" found in the second sentence.

340-32-120 (14)(d) delete the word "for" in the last line.

In closing we comment the Department for the significant progress that has been made in making these rules readable and for their efforts to inform the regulated community of the opportunity to comment.

Sincerely,



Theresa Parrone  
Air & Water Quality Programs Manager

cc: file

facility over the threshold quantity of 10,000 lbs. These same chemicals are then subject to the Oregon Toxic Use and Hazardous Waste Reduction Act with its annual progress reports. The accidental release provisions of FCAA Section 112(r), provide for the development of risk management plans for listed chemicals present at the facility in over the threshold quantity, but do not require the quantification of emissions. These thresholds vary from 500 to 10,000 lbs. A portion of these chemicals are listed solely for their flammability, not their toxicity.

If the Department feels that additional information is necessary for a specific purpose, then the Department should target that purpose clearly and justify the need and its accompanying impact.

Additional reporting will provide no environmental benefit and will cost Oregon businesses millions of dollars, dollars which would be better spent on actually reducing emissions.

    Making this requirement applicable to FOPP sources will pose an accounting burden on the Department since it can not be paid for by FOPP sources.

Since this is not a required part of the FOPP program, it can not be funded by FOPP sources. Oregon law prohibits the Department from including it in the FOPP program without a showing of scientific defensibility and need. Because of this, any Department time spent on accepting, determining completeness, or reviewing this information must be tracked and paid for separately from the time used for the rest of the application. In addition, all copies of the permit application including those sent to EPA, neighboring states, and public notice must include this information yet cannot be paid for by the FOPP program. Responses to questions and comment about this information cannot be paid for by the FOPP sources. This will impose a significant accounting burden on the Department. Surely there must be other methods to obtain necessary information in a manner more productive and cost effective for both the Department and the regulated community?

## EMISSION STANDARDS

This section makes numerous references to "the effective date of the program" but fails to specify what program. Is this the FOPP or is it Division 32? This needs to be clearly stated possibly in the definitions.

ASSOCIATED OREGON INDUSTRIES

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FOP 3

COMMENTS ON  
THE DEPARTMENT OF ENVIRONMENTAL QUALITY'S  
PROPOSED OPERATING PERMIT PROGRAM  
AND HAZARDOUS AIR POLLUTANT RULES

July 9, 1993

I. INTRODUCTION

These comments address the May 17, 1993, draft of the Department's operating permit program (Division 28) and hazardous air pollutant (Division 32) rules. Appended to the comments is a marked copy of Divisions 28 and 32 that shows AOI's specific suggestions for revisions.

The comments below address AOI's principal concerns with the proposed rules. Additional comments on specific rule language are included as footnotes to the appended copy of the rules.

II. DIVISION 28

A. HIGHEST AND BEST RULE

OAR 340-20-001 (proposed to be renumbered as OAR 340-28-600) is vague and overbroad. It could be interpreted in ways that would swallow all the Department's other rules, making them superfluous. More important to AOI, the rule's vagueness makes the compliance demonstrations to be required under these new rules impossible. We recognize and appreciate that the Department is considering revisions to the rule and that these revisions, together with proposed legislation, may address our concerns. Until these concerns are addressed, however, AOI must take the position that the rules currently proposed are unworkable.

B. EXCESS EMISSION RULE

Although AOI appreciates the Department's efforts to improve the excess emission rules (to be renumbered OAR 340-28-1400 through 340-28-1460) (at pp. A-34 through A-41), many significant problems remain.

1. The proposed rules would provide only the minimum affirmative defense that is required by the federal rules,

i.e., an affirmative defense for violations of technology-based limits caused by "emergencies." Limiting the defense to this narrow set of circumstances is not justified. If a source can demonstrate, under the high standards of proof demanded by this section, that an exceedance of a permit condition was unavoidable, the source should be entitled to an affirmative defense. There can be no public policy that would be served by enforcement actions against sources for emissions that truly were unavoidable.

2. Proposed OAR 340-28-110(38) (at p. A-9) leaves unchanged the definition of "event," which is defined as "any period of excess emissions." This vague definition provides no guidance to permittees regarding when excess emission events must be reported under proposed OAR 340-28-1430(2). For example, if an excess emission period of five minutes is followed by a five-minute period of emissions within the permit limits, and then by another five-minute excess emission period, are one or two "immediate" excess emission reports required by proposed OAR 340-28-1430(2)? AOI proposes (1) that OAR 340-28-110(38) define an "excess emission event" as "all excess emissions that have a common fundamental cause and that occur during a single calendar day" and (2) that the reporting requirements set forth in OAR 340-28-1430(2) be based on excess emission events. This approach has been used by the Department previously in a stipulated final order with an industrial source.

3. Proposed OAR 340-28-110(48) (at p. A-9) leaves the definition of "immediately" unchanged. "Immediately" is defined as "as soon as possible but in no case more than one hour after the beginning of the excess emission period." The difficulty with this definition is that sources that are required to report excess emissions "immediately" under proposed OAR 340-28-1430(2) may not have any reason to know, or may not be able to know, that excess emissions are occurring until well after one hour after they have begun. For example, emissions in excess of a 24-hour average ordinarily cannot be ascertained until at least 24 hours after they have begun. AOI proposes that "immediately" be defined as "as soon as possible but in no case more than one hour after the permittee knew or should have known that an excess emission event had begun."

4. Proposed OAR 340-28-1410 and 340-28-1420 make clear that sources need not obtain 72-hour advance approval of startup, shutdown, and scheduled maintenance procedures for each startup, shutdown, or instance of scheduled maintenance. This will make it less cumbersome to obtain approval of these procedures. The proposed rules, however, add two unnecessary requirements. First, sources must in certain instances notify the Department before the startup, shutdown, or scheduled

maintenance occurs. OAR 340-28-1410(3), 340-28-1420(3). Second, sources must also notify the Department immediately after the startup, shutdown, or scheduled maintenance begins. These notification requirements are unnecessary because the rules already prohibit startups, shutdowns, and scheduled maintenance associated with approved procedures during air pollution alerts, warnings, emergencies, and woodstove curtailment periods. OAR 340-28-1410(5), 340-28-1420(5). Notice should only be required if excess emissions actually occur during the startup, shutdown or maintenance.

5. The proposed rules provide no incentive for sources to obtain approval of startup, shutdown, and scheduled maintenance procedures. If sources follow approved procedures, which must minimize excess emissions, any excess emissions that occur notwithstanding the procedures should be rebuttably presumed to be unavoidable. Without such a presumption, sources have no reason to expend the effort to obtain approval. Such a rebuttable presumption would not prevent the Department from taking enforcement action if it had evidence that sources were negligent notwithstanding the fact that they followed the approved procedures. Evidence of negligence could be obtained through the excess emission reports the Department is authorized to require from sources.

6. Proposed OAR 340-28-1450 sets forth criteria for determining whether an affirmative defense is available for excess emissions caused by an emergency and for determining whether an enforcement action is warranted for excess emissions that are due to other causes. These criteria include both the Department's existing enforcement action criteria and additional criteria contained in the federal emergency rule set forth at 40 C.F.R. § 70.6(g). To the extent that an emergency defense must satisfy criteria other than those set forth in 40 C.F.R. § 70.6(g), including the immediate reporting requirement, this provision is inconsistent with ORS 468A.310(2).

#### C. INSIGNIFICANT ACTIVITIES

AOI generally agrees with the Department's proposed definition and treatment of insignificant activities, although only practical experience with application of these provisions will tell whether in fact they are workable.

AOI has the following comments on specific aspects of the Department's proposal:

1. In proposed OAR 340-28-110(16) (p. A-6), a "categorically insignificant activity" is defined generally as

"an activity not included in the pollutant emitting activities which belong to the same industrial grouping . . . as described in the Standard Industrial Classification Manual." The definition then includes a number of specific examples of categorically insignificant activities. AOI understands that the definition is not intended to be limited to the specific examples given. In order to clarify this, AOI believes that the word "including" in the definition should be replaced with the phrase "including, but not limited to." AOI understood from discussions in the Advisory Committee meetings that sources could request in permit applications that DEQ designate additional activities as categorically insignificant. This authority should be clear in the proposed rule. Otherwise, sources and DEQ will waste resources trying to quantify emissions activities that could easily be characterized as insignificant without quantification.

2. AOI is particularly concerned with proposed 340-28-2120(3)(c)(D) (p. A-85), which appears to require applicants to propose some form of compliance demonstration for proposed insignificant activities. AOI has consistently taken the position that sources should be regulated principally through emission limits. If those limits are exceeded, appropriate enforcement action should follow. AOI does not believe additional constraints are necessary or appropriate to prevent sources from having the potential to exceed their permit limits. Such additional constraints are especially inappropriate when the emissions in question are insignificant.

3. We did not find in the proposed rules an explanation of the effect of an activity being insignificant. The rule needs to state clearly that the information required to be included in the permit for insignificant activities is limited to that described in 340-28-2120(3)(c)(D). It also needs to state that no specific requirements (including monitoring, reporting, or compliance demonstrations) for these emissions units will be included in the permit, but that these emissions nonetheless must comply with any applicable requirements. Without such clarifying language, it would appear that the designation of an activity as insignificant would have no effect at all.

4. Proposed OAR 340-28-2120(3)(c)(D) would require title V permit applications to include a list of all categorically insignificant activities and a list of "all applicable requirements to which each insignificant activity identified in the permit application is subject." These requirements exceed the requirements of the federal operating permit program and are inconsistent with ORS 468A.310(2). The federal program requires only those "insignificant activities that are exempted because of size, emission levels, or



production rate" to be listed in a permit application. 57 Fed. Reg. 32,273 (July 21, 1992); see also 40 C.F.R. § 70.5(c). For other "exemptions which apply to an entire category of activities . . . , the application need not contain any information on the activity." 57 Fed. Reg. 32,273 (July 21, 1992). Accordingly, AOI urges the Department (1) to delete the general listing requirement for categorically insignificant activities and (2) to delete the requirement that the application list the applicable requirements to which categorically insignificant activities are subject.

#### D. INSIGNIFICANT CHANGE

AOI generally agrees with the manner in which the Department has drafted the definition of "insignificant" change in proposed OAR 340-28-110(49) (p. A-9). However, the rule never describes the effect of a change that falls within this definition. Consistently with the federal rule, insignificant changes should be treated as off-permit changes that are not subject to the recordkeeping and reporting requirements that apply to other off-permit changes. Accordingly they should be included in the definition of off-permit changes, but should be specifically excluded from 340-28-2220(2)(c) and (d).

AOI believes that the following additional clarifications are needed:

1. "Insignificant change" is defined as "a change or modification or addition of a categorically insignificant activity or insignificant mixture usage which does not cause emissions to exceed the applicable aggregate insignificant emission levels . . . ." This definition does not appear to cover changes to activities that are insignificant because their emissions are under the aggregate insignificant emissions levels. This is contrary to proposals discussed in the Advisory Committee and would effectively cause most changes to the vast majority of insignificant activities to be subject to recordkeeping and reporting obligations. We have assumed that this is not the Department's intent and have suggested language in the attached marked copy to avoid this result.

2. A second difficulty with the proposed definition of "insignificant change" is that it implies that changes to categorically insignificant activities are insignificant only if the change would not cause the source to exceed an aggregate emission level. In order to determine this, however, a source would have to estimate emissions from categorically insignificant activities. Requiring a source to estimate emissions from categorically insignificant activities would defeat the purpose of having categorically insignificant

activities, would be contrary to the federal operating permit program rules, see 57 Fed. Reg. 32,273 (July 21, 1992), and would be inconsistent with proposed OAR 340-28-2120(3)(c)(D). The definition should make clear that any change in a categorically insignificant activity is an insignificant change, provided that the criteria listed in paragraphs (a) through (d) of the definition of "insignificant change" are satisfied.

3. Perhaps most important, the definition does not include inconsequential changes to significant activities that do not increase potential to emit. We understood in the Advisory Committee meetings that changes to regulated emissions units would be regarded as insignificant if they: (1) do not increase potential to emit, (2) do not invoke some applicable requirement to which the source was not already subject and (3) meet the other criteria for off-permit changes. Without such an exemption from the recordkeeping and reporting obligations for off-permit changes, sources will have no direction for when to report to DEQ truly inconsequential changes to their significant emissions units. For example, moving a degreasing unit from one part of a plant to another should not invoke any procedural requirements. If the location of the degreaser were shown on the permit application, however, such a change would require reporting to DEQ unless the definition of insignificant change is modified to include it. 40 CFR § 70.4(b)(14) combined with § 70.5(c) clearly allow DEQ to define insignificant activities and changes in a workable manner. Just because the activity itself is not insignificant does not mean that changes to the activity need to be subject to the recordkeeping and reporting requirements for other off-permit changes.

4. Paragraph (a) of the proposed definition of "insignificant change" would limit insignificant changes to changes that do "not invoke another applicable permit term or condition." AOI is not certain what this criterion means or what it adds to the criteria set forth in paragraphs (b) through (d) of the definition. Based upon 40 CFR § 70.4(b)(12)(iii), it appears that changes that invoke an applicable requirement to which the source had not previously been subject must be recorded. Such changes, therefore, could not qualify as insignificant under DEQ's proposed rules. If this is the point DEQ is trying to address, the proposed rule should be revised to clarify this intent.

E. OFF-PERMIT CHANGES

AOI has the following comments on the off-permit changes proposal set forth in OAR 340-28-2220(2) (p. A-100):

1. Subparagraph (F) of OAR 340-28-2220(2)(a) would limit off-permit changes to those changes that "may result in insignificant changes of emissions of regulated air pollutants not otherwise regulated under the permit or may result in insignificant changes as described in OAR 340-28-110(50) [sic]."<sup>1</sup> Similarly, proposed OAR 340-28-2220(2)(c) would require permittees to keep a record of off-permit changes that result in "insignificant emissions." It is not clear what emissions changes would qualify as "insignificant," but the federal rule requires no such limit. See 40 C.F.R. § 70.4(b)(14). In fact, this language blurs the distinction between insignificant changes and all other off-permit changes. Consequently, this provision contravenes ORS 468A.310.

Moreover, no such limit is warranted. The other provisions of proposed OAR 340-28-2220(2)(a) would preclude off-permit changes that would, among other things, violate PSEs or other permit conditions, that would constitute title I modifications, or that would not meet all applicable requirements. These limits, together with the procedural requirements that apply to off-permit changes, ensure that any change in emissions as a result of an off-permit change would have no significant effect on air quality. The resources of industry and the Department would be better used by allowing these changes to be processed as off-permit changes rather than as permit modifications. AOI urges the Department to delete subparagraph 340-28-2220(2)(a)(F) and to delete the word "insignificant" in OAR 340-28-2220(2)(c).

2. Proposed OAR 340-28-2220(2)(e) would require all off-permit changes to be incorporated into the permit upon permit renewal. This requirement is not contained in the federal rule, see 40 C.F.R. § 70.4(b)(14), and would be unduly burdensome to industry and the Department for insignificant changes that do not require notice or recordkeeping. Moreover, it would not be appropriate to include temporary off-permit changes or off-permit changes that became obsolete in permit renewals. The reference in EPA's operating permit rule preamble to incorporation of these changes at the time of permit renewal was not intended to require incorporation of all off-permit changes, only those relevant to the permit renewal.

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<sup>1</sup> The definition of insignificant change is set forth at OAR 340-28-110(49), not OAR 340-28-110(50).

See 57 Fed Reg 32,269 (July 21, 1992). The permit application rules adequately address those circumstances, however. AOI urges the Department to delete OAR 340-28-2220(2)(e).

#### F. MINOR PERMIT MODIFICATIONS

Proposed OAR 340-28-2250(2)(d) (at p. A-105) would require permittees to wait 45 days after filing a minor permit modification application before making the change requested in the application. This is more stringent than the federal rule, which allows the change to be made immediately upon filing the application, 40 C.F.R. § 70.7(e)(2)(v), and directly at odds with ORS 468A.310(2). Because minor permit modifications are limited in scope, are not protected by the permit shield, and must be processed expeditiously, there is no reason to require permittees to wait 45 days before making the change. This 45-day period was inserted in the proposed rule as a compromise package that involved exempting permitted title V sources from the notice of intent to construct requirements. If these sources are to be subject to the notice of intent to construct rules, the 45-day period must be deleted from the rule and sources must be allowed to make these changes immediately after it files its application.

#### G. NOTICE OF INTENT TO CONSTRUCT

The proposed rules do not exempt title V sources from the existing notice of intent to construct rules (to be renumbered as OAR 340-28-800 to 340-28-820) (at p. A-24 to A-26). The existing rules require 60 days' prior notice of new construction, which includes replacement and modification of air contamination sources. This requirement is inconsistent with, and would make useless, the operational flexibility provisions of title V.

AOI understands that the continued application of the notice of intent to construct rules to title V sources is due to concerns raised by EPA. AOI further understands that the Department is working with EPA to resolve these concerns.

#### H. PLANT SITE EMISSION LIMITS FOR HAPS

Proposed OAR 340-28-1050(2)(b) would authorize the Department to establish plant site emission limits (PSEs) for hazardous air pollutants (HAPs) when the HAP source became "subject to a hazardous air pollutant emission standard, limitation, or control requirement other than" PSEs. For the reasons that AOI has previously conveyed to the Department,

mandatory PSELS for HAPs are not appropriate. The PSEL program was intended to regulate criteria pollutants, not HAPs, which are subject to a comprehensive program of MACT limits, and it may be impossible to establish realistic baseline emissions of HAPs. Moreover, the involuntary regulation of HAPs through PSELS is contrary to the understanding reached in the Advisory Committee. AOI urges the Department to delete proposed OAR 340-28-1050(2)(b).

### III. DIVISION 32

#### A. QUANTIFICATION OF HAZARDOUS AIR POLLUTANTS

AOI has the following comments regarding emissions quantification and reporting requirements under proposed Division 32:

1. Proposed OAR 340-32-230(2), 340-32-240(2)(a), and 340-32-260(1) (at pp. B-9 to B-10) require actual and potential emissions of hazardous air pollutants (HAPs) to be quantified and reported. These provisions should exempt insignificant HAP emissions in accordance with the insignificant emissions provisions of Division 28.

2. Proposed OAR 340-32-240(2)(b) (p. B-9) would require applicants to determine and report "all actual emissions totalling more than 1000 pounds per year of all chemicals listed under Title III Section 313 of the Superfund Amendments and Reauthorization Act of 1986" (SARA 313). Determining and reporting SARA 313 emissions is not required by the federal Clean Air Act or implementing regulations. Moreover, until and unless emissions of SARA 313 chemicals are regulated under Division 32, there is no justification for this burdensome requirement. AOI members are willing to provide the Department with SARA 313 emissions information to the extent that this information is already collected for purposes of compliance with SARA 313, but the proposed 1000-pound-per-year threshold is far lower than the thresholds under SARA 313.

3. The requirements in proposed OAR 340-32-240(2)(b) and (c) to report actual emissions of SARA 313 chemicals and subsection 112(r) chemicals do not specify how actual emissions are to be quantified. The rule discussion document suggests that the quantification requirements are not as stringent as those for HAPs, but, if emissions of these substances are to be quantified and reported, further clarification is needed in the rules. AOI has suggested modified language with respect to the reporting of 112(r) chemicals in proposed OAR 340-32-240(2)(c) to make this requirement more consistent with subsection 112(r) and the reporting thresholds for HAPs.

## B. RESIDUAL EMISSIONS

The proposed residual emissions provisions of OAR 340-32-500(4) (p. B-22) and OAR 340-32-4500(3) (p. B-25) are not required by the federal program, will be unduly burdensome to industry and the Department, and will likely produce no environmental benefits. AOI strongly urges the Department to delete these provisions in their entirety.

MACT limits are purposefully stringent limits that were adopted as a compromise in order to avoid the need for engaging in the extraordinarily difficult exercise of making risk assessments. The Clean Air Act directs EPA, with its national resources, to pursue that task in the near future. Moreover, the Commission has rulemaking authority to address residual risks from HAPs should any such risks be identified. There is no need for engaging in this exercise in each and every permit application, even in the form of "residual emissions" rather than "residual risks." Accordingly, these proposed rules should be deleted.

If, nonetheless, the Department chooses not to delete the residual emissions provisions from the proposed rules, AOI urges the Department to consider the following comments, which apply equally to new sources and modifications of existing sources:

1. Proposed OAR 340-32-500(4)(a) would trigger additional action if a source's potential to emit exceeds de minimis levels. The use of potential to emit in this context is inappropriate. If the source is not actually emitting above the de minimis levels, its potential is irrelevant. For the vast majority of HAPs, potential to emit will depend upon a vast variety of work practices, processes, and raw material selections. Under at least some circumstances, almost any source has the potential to emit more than de minimis levels of a large number of HAPs. For example, the amount of chlorinated solvents a source emits depends on how generously it uses solvents, the solvents it selects, and the manner in which they are used. To limit the source's potential to emit would require specifying in the permit detailed limits on all these parameters for every chlorinated solvent the source has the potential to use. Such detail is inappropriate and a waste of public and private resources. As long as the source finds a mix of these factors that actually keeps its emissions of particular HAPs below de minimis levels, there is no need for DEQ to regulate this level of detail in the source's operations simply in order to artificially reduce the potential to emit.

Accordingly, this section should be revised to refer only to actual emissions.

2. This section also provides that a major source "shall demonstrate" that the potential to emit each listed HAP is less than the de minimis amounts listed in Table 3. Although AOI does not believe that the Department intended to mandate a reduction in HAP emissions to de minimis levels, the use of the phrase "shall demonstrate" implies exactly that. The phrase "shall demonstrate that" should be replaced with "shall, upon Department request, assess whether."

3. Proposed OAR 340-32-500(4)(b) provides that, if HAP emissions exceed de minimis levels, "additional emissions reduction measures shall be considered." It is not clear who must consider the additional reduction measures or what consideration is required. Moreover, the rule wrongly assumes that emissions in excess of de minimis amounts pose a threat to public health. Because of the difficulty of assessing the risk posed by residual emissions (the very reason for MACT standards), AOI believes that the residual emissions rule, if retained, should provide the following mechanism for addressing the residual risk concerns that lie in back of this rule: (1) the source should, upon the direction of the Department, assess whether residual HAP emissions actually exceed the de minimis amounts; if so, (2) the Department should consider whether additional controls may be warranted; if the Department decides that additional controls may be warranted, (3) the source should be permitted, but should not be required, to either (a) demonstrate that the residual emissions pose no unreasonable risk to human health through an air quality or other analysis or (b) propose additional emissions controls that will resolve the Department's concerns. If the Department's concerns remain unresolved, then the Department could initiate a rulemaking proceeding as provided in proposed OAR 340-32-500(4)(b)(B). This procedure would provide a mechanism for addressing residual risk concerns without unduly burdening industry and the Department with unnecessary risk analyses or emissions controls.

#### C. HAP NEW SOURCE REVIEW

Proposed OAR 340-28-110(56)(a) (p. A-11) would define a major source for purposes of new source review as a "source which emits, or has the potential to emit, any pollutant regulated under the Clean Air Act at a Significant Emission Rate." "Significant emission rate" is defined at OAR 340-28-110(83) (p. A-17), subsection (b) of which provides, "For pollutants not listed above, the Department shall determine the rate that constitutes a significant emission rate." Together,

these definitions subject HAP emissions to new source review under proposed OAR 340-28-1900 through 340-28-2000.

By definition, the nonattainment provisions of the Clean Air Act apply only to criteria pollutants. See 42 U.S.C. § 7501(2). In addition, 42 U.S.C. § 7412(b)(6) expressly provides that the prevention of significant deterioration (PSD) provisions of the Act do not apply to HAPs. Because proposed OAR 340-28-1900 through 340-28-2000 are intended to implement the nonattainment and PSD provisions of the Clean Air Act, these provisions should expressly exclude HAPs. Because the proposed rules bring many new pollutants into DEQ's rules and potentially subject them to this overbroad new source review provision, failure to exempt HAPs from new source review will cause the Oregon rule to be more stringent than the federal program and will contravene ORS 468A.310(2).



Public Meeting

June 25, 1993, Portland

Air Operating Permit Regulations

Good afternoon, Mr. Chairman, ladies and gentlemen. My name is Dick Nachbar. I am the Western Region Environmental Manager for Boise Cascade Corporation. We are a major forest products company with numerous facilities and employees in the state of Oregon.

Today I'm going to make a few comments on the proposed air operating permit regulations for Oregon.

1. The size of the task that DEQ has undertaken is a big one and efforts by the staff have been significant.
2. The implementation issues associated with these regulations are complex; efforts should be designed to bring simplicity, not added unnecessary complexity, to the final product. Examples include:
  - extensive reporting requirements, e.g., semiannual, 6 copies, plus electronic format.

- . impractical deadlines, e.g., "immediately".
  - . pre-construction review procedures = in addition to PSD program procedures?
3. Going beyond federal statutory requirements only makes Oregon's program more difficult for business; establishing subjective administrative hurdles rather than clear objectives also makes the program more difficult to administer effectively.
  4. Please don't discourage or penalize good intentions shown by conscientious companies who try to do the right thing, but who may get tangled up in overly complex procedures created by the process in Oregon. The rules should provide a clear picture for dealing with insignificant sources, off-permit changes, and minor changes to permits. These are examples of potential operating difficulty likely to arise with the proposed regulations. And I assume there will be future opportunity to comment on forthcoming supplements to these proposals--"enhanced monitoring" is an example.

In closing, let me emphasize that BCC fully supports the efforts and detailed inputs from AOI, NWPPA, and all those who are working to make this program a good one for Oregon. We encourage you to do just that -- make it a good program for Oregon.

Thank you!

DEQ



Portland General Electric Company

P3a  
FOP 5

July 8, 1993

Mr. Kevin Downing  
Department of Environmental Quality  
811 S.W. Sixth Avenue  
Portland, OR 97204

Subject: Comments on DEQ's Proposed Air Permit Rules

Dear Mr. Downing:

PGE has the following comments on the proposed air permit program rules:

1. PGE commented at the June 25, 1993 DEQ hearing by requesting that the HAP rules not apply to electric utility steam generating units as provided for in paragraph 112 (n) (1) of Title III in the Clean Air Act. A copy of those comments is attached.
2. OAR 340-28-2500. The requirement to have CEM data be in compliance with the Continuous Monitoring Manual is too restrictive for data that is to be used for assessing fees. The requirements used in 1991 provide reasonable estimates of regulated emissions. We recommend that the rule be changed to allow the use of data that is reasonable and representative of the emissions from a source.
3. A note should be added after 340-28-2110 as follows (this sentence is from the DEQ rule discussion document page I-40):

"FCAA Sections 506(b) and 408(a) state that the requirements of a Title V program will apply to the permitting of affected sources under the acid rain program, except as modified by Title IV."

The reason for this note would be to capture differences between Title IV and Title V that may not have been identified in the proposed rules and allow for differences that will be present in future rules that EPA will promulgate and that will probably be adopted by the DEQ by reference.

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JUL 8 - 1993

AIR QUALITY DIVISION  
Dept. Environmental Quality

121 S.W. Salmon Street, Portland, Oregon 97204



4. PGE agrees with the comments provided by Associated Oregon Industries (AOI). The concerns stated in the AOI comments about "Highest and Best Rule" and the "Quantification of HAPs" are also of great concern to PGE and the rules need to be revised as recommended in their comments.
5. As a general comment PGE believes that the DEQ permit program rules should not exceed the Federal program requirements unless there is a scientifically defensible basis for being more stringent.

Thank you for the opportunity to comment on these rules.

Sincerely,



Rick Hess  
Environmental Services

Attachment

c: Ann Fisher  
Dennis Norton  
George Wyatt

obligations of the Administrator or the State under title V.

**(m) ATMOSPHERIC DEPOSITION TO GREAT LAKES AND COASTAL WATERS.—**

**"(1) DEPOSITION ASSESSMENT.**—The Administrator, in cooperation with the Under Secretary of Commerce for Oceans and Atmosphere, shall conduct a program to identify and assess the extent of atmospheric deposition of hazardous air pollutants (and in the discretion of the Administrator, other air pollutants) to the Great Lakes, the Chesapeake Bay, Lake Champlain and coastal waters. As part of such program, the Administrator shall—

**"(A)** monitor the Great Lakes, the Chesapeake Bay, Lake Champlain and coastal waters, including monitoring of the Great Lakes through the monitoring network established pursuant to paragraph (2) of this subsection and designing and deploying an atmospheric monitoring network for coastal waters pursuant to paragraph (4);

**"(B)** investigate the sources and deposition rates of atmospheric deposition of air pollutants (and their atmospheric transformation precursors);

**"(C)** conduct research to develop and improve monitoring methods and to determine the relative contribution of atmospheric pollutants to total pollution loadings to the Great Lakes, the Chesapeake Bay, Lake Champlain, and coastal waters;

**"(D)** evaluate any adverse effects to public health or the environment caused by such deposition (including effects resulting from indirect exposure pathways) and assess the contribution of such deposition to violations of water quality standards established pursuant to the Federal Water Pollution Control Act and drinking water standards established pursuant to the Safe Drinking Water Act; and

**"(E)** sample for such pollutants in biota, fish, and wildlife of the Great Lakes, the Chesapeake Bay, Lake Champlain and coastal waters and characterize the sources of such pollutants.

**"(2) GREAT LAKES MONITORING NETWORK.**—The Administrator shall oversee, in accordance with Annex 15 of the Great Lakes Water Quality Agreement, the establishment and operation of a Great Lakes atmospheric deposition network to monitor atmospheric deposition of hazardous air pollutants (and in the Administrator's discretion, other air pollutants) to the Great Lakes.

**"(A)** As part of the network provided for in this paragraph, and not later than December 31, 1991, the Administrator shall establish in each of the 5 Great Lakes at least 1 facility capable of monitoring the atmospheric deposition of hazardous air pollutants in both dry and wet conditions.

**"(B)** The Administrator shall use the data provided by the network to identify and track the movement of hazardous air pollutants through the Great Lakes, to determine the portion of water pollution loadings attributable to atmospheric deposition of such pollutants, and to support development of remedial action plans and other management plans as required by the Great Lakes Water Quality Agreement.

**"(C)** The Administrator shall assure that the data collected by the Great Lakes atmospheric deposition monitoring network is in a format compatible with databases sponsored by the International Joint Commission, Canada, and the several States of the Great Lakes region.

**"(3) MONITORING FOR THE CHESAPEAKE BAY AND LAKE CHAMPLAIN.**—The Administrator shall establish at the Chesapeake Bay and Lake Champlain atmospheric deposition stations to monitor deposition of hazardous air pollutants (and in the Administrator's discretion, other air pollutants) within the

Chesapeake Bay and Lake Champlain watersheds. The Administrator shall determine the role of air deposition in the pollutant loadings of the Chesapeake Bay and Lake Champlain, investigate the sources of air pollutants deposited in the watersheds, evaluate the health and environmental effects of such pollutant loadings, and shall sample such pollutants in biota, fish and wildlife within the watersheds, as necessary to characterize such effects.

**"(4) MONITORING FOR COASTAL WATERS.**—The Administrator shall design and deploy atmospheric deposition monitoring networks for coastal waters and their watersheds and shall make any information collected through such networks available to the public. As part of this effort, the Administrator shall conduct research to develop and improve deposition monitoring methods, and to determine the relative contribution of atmospheric pollutants to pollutant loadings. For purposes of this subsection, "coastal waters" shall mean estuaries selected pursuant to section 320(a)(2)(A) of the Federal Water Pollution Control Act or listed pursuant to section 320(a)(2)(B) of such Act or estuarine research reserves designated pursuant to section 315 of the Coastal Zone Management Act (16 U.S.C. 1461).

**"(5) REPORT.**—Within 3 years of the date of enactment of the Clean Air Act Amendments of 1990 and biennially thereafter, the Administrator, in cooperation with the Under Secretary of Commerce for Oceans and Atmosphere, shall submit to the Congress a report on the results of any monitoring, studies, and investigations conducted pursuant to this subsection. Such report shall include, at a minimum, an assessment of—

**"(A)** the contribution of atmospheric deposition to pollution loadings in the Great Lakes, the Chesapeake Bay, Lake Champlain and coastal waters;

**"(B)** the environmental and public health effects of any pollution which is attributable to atmospheric deposition to the Great Lakes, the Chesapeake Bay, Lake Champlain and coastal waters;

**"(C)** the source or sources of any pollution to the Great Lakes, the Chesapeake Bay, Lake Champlain and coastal waters which is attributable to atmospheric deposition;

**"(D)** whether pollution loadings in the Great Lakes, the Chesapeake Bay, Lake Champlain or coastal waters cause or contribute to exceedances of drinking water standards pursuant to the Safe Drinking Water Act or water quality standards pursuant to the Federal Water Pollution Control Act or, with respect to the Great Lakes, exceedances of the specific objectives of the Great Lakes Water Quality Agreement; and

**"(E)** a description of any revisions of the requirements, standards, and limitations pursuant to this Act and other applicable Federal laws as are necessary to assure protection of human health and the environment.

**"(6) ADDITIONAL REGULATION.**—As part of the report to Congress, the Administrator shall determine whether the other provisions of this section are adequate to prevent serious adverse effects to public health and serious or widespread environmental effects, including such effects resulting from indirect exposure pathways, associated with atmospheric deposition to the Great Lakes, the Chesapeake Bay, Lake Champlain and coastal waters of hazardous air pollutants (and their atmospheric transformation products). The Administrator shall take into consideration the tendency of such pollutants to bioaccumulate. Within 5 years after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall, based on such report and determination, promulgate, in accordance with this

section, such further emission standards or control measures as may be necessary and appropriate to prevent such effects, including effects due to bioaccumulation and indirect exposure pathways. Any requirements promulgated pursuant to this paragraph with respect to coastal waters shall only apply to the coastal waters of the States which are subject to section 328(a).

**"(n) Other Provisions.**

**"(1) ELECTRIC UTILITY STEAM GENERATING UNITS.—**

**"(A)** The Administrator shall perform a study of the hazards to public health reasonably anticipated to occur as a result of emissions by electric utility steam generating units of pollutants listed under subsection (b) after imposition of the requirements of this Act. The Administrator shall report the results of this study to the Congress within 3 years after the date of the enactment of the Clean Air Act Amendments of 1990. The Administrator shall develop and describe in the Administrator's report to Congress alternative control strategies for emissions which may warrant regulation under this section. The Administrator shall regulate electric utility steam generating units under this section, if the Administrator finds such regulation is appropriate and necessary after considering the results of the study required by this subparagraph.

**"(B)** The Administrator shall conduct, and transmit to the Congress not later than 4 years after the date of enactment of the Clean Air Act Amendments of 1990, a study of mercury emissions from electric utility steam generating units, municipal waste combustion units, and other sources, including area sources. Such study shall consider the rate and mass of such emissions, the health and environmental effects of such emissions, technologies which are available to control such emissions, and the costs of such technologies.

**"(C)** The National Institute of Environmental Health Sciences shall conduct, and transmit to the Congress not later than 3 years after the date of enactment of the Clean Air Act Amendments of 1990, a study to determine the threshold level of mercury exposure below which adverse human health effects are not expected to occur. Such study shall include a threshold for mercury concentrations in the tissue of fish which may be consumed (including consumption by sensitive populations) without adverse effects to public health.

**"(2) COKE OVEN PRODUCTION TECHNOLOGY STUDY.—**

**"(A)** The Secretary of the Department of Energy and the Administrator shall jointly undertake a 6-year study to assess coke oven production emission control technologies and to assist in the development and commercialization of technically practicable and economically viable control technologies which have the potential to significantly reduce emissions of hazardous air pollutants from coke oven production facilities. In identifying control technologies, the Secretary and the Administrator shall consider the range of existing coke oven operations and battery design and the availability of sources of materials for such coke ovens as well as alternatives to existing coke oven production design.

**"(B)** The Secretary and the Administrator are authorized to enter into agreements with persons who propose to develop, install and operate coke production emission control technologies which have the potential for significant emissions reductions of hazardous air pollutants provided that Federal funds shall not exceed 50 per centum of the cost of any project assisted pursuant to this paragraph.

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FOP 5



June 24, 1993

Mr. Kevin Downing  
Department of Environmental Quality  
811 S.W. Sixth Avenue  
Portland, OR 97204

Subject: Comments on the DEQ's Proposed Hazardous Air Pollution Rules

Dear Mr. Downing:

PGE recommends that the regulation of HAP emissions from electric utility steam generating units be deferred until EPA determines what regulation is appropriate and necessary. We recommend that this deferral be included as a note in rule 340-32-200 as follows:

Applicability  
340-32-200  
...

Note: Regulation of HAP emissions from electric utility steam generating plants is deferred until EPA determines what regulation is appropriate and necessary.

The Boardman Electric Power Plant would be the only source affected by this proposed revision to the rules. PGE is the operator and 65% owner of Boardman.

The basis for this proposed revision is paragraph 112 (n) (copy attached) in Title III of the Clean Air Act Amendments of 1990. This paragraph requires the EPA to study the hazards to public health reasonably anticipated to occur as a result of HAP emissions from electric utility steam generation units. This paragraph further states that the administrator shall regulate electric utility steam generating units under this section, if the administrator finds such regulation is appropriate and necessary after considering the results of the studies required by this paragraph.

Other important points supporting this proposal are:

1. The equipment to remove HAPs from these units is currently not available.

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AIR QUALITY DIVISION  
Dept. Environmental Quality



2. If EPA requires a control technology, then the cost to develop this technology could be shared by all of the owners of coal fired power plants.
3. This revision would meet the requirements of the Clean Air Act Amendments of 1990.

Thank you for the opportunity to comment on these proposed rules.

Sincerely,



Rick Hess  
Environmental Services

c: Steve Greenwood  
George Wyatt  
Ann Fisher

obligations of the Administrator or the State under title V.

**(11) ATMOSPHERIC DEPOSITION TO GREAT LAKES AND COASTAL WATERS.—**

**"(1) DEPOSITION ASSESSMENT.**—The Administrator, in cooperation with the Under Secretary of Commerce for Oceans and Atmosphere, shall conduct a program to identify and assess the extent of atmospheric deposition of hazardous air pollutants (and in the discretion of the Administrator, other air pollutants) to the Great Lakes, the Chesapeake Bay, Lake Champlain and coastal waters. As part of such program, the Administrator shall—

**"(A)** monitor the Great Lakes, the Chesapeake Bay, Lake Champlain and coastal waters, including monitoring of the Great Lakes through the monitoring network established pursuant to paragraph (2) of this subsection and designing and deploying an atmospheric monitoring network for coastal waters pursuant to paragraph (4);

**"(B)** investigate the sources and deposition rates of atmospheric deposition of air pollutants (and their atmospheric transformation precursors);

**"(C)** conduct research to develop and improve monitoring methods and to determine the relative contribution of atmospheric pollutants to total pollution loadings to the Great Lakes, the Chesapeake Bay, Lake Champlain, and coastal waters;

**"(D)** evaluate any adverse effects to public health or the environment caused by such deposition (including effects resulting from indirect exposure pathways) and assess the contribution of such deposition to violations of water quality standards established pursuant to the Federal Water Pollution Control Act and drinking water standards established pursuant to the Safe Drinking Water Act; and

**"(E)** sample for such pollutants in biota, fish, and wildlife of the Great Lakes, the Chesapeake Bay, Lake Champlain and coastal waters and characterize the sources of such pollutants.

**"(2) GREAT LAKES MONITORING NETWORK.**—The Administrator shall oversee, in accordance with Annex 15 of the Great Lakes Water Quality Agreement, the establishment and operation of a Great Lakes atmospheric deposition network to monitor atmospheric deposition of hazardous air pollutants (and in the Administrator's discretion, other air pollutants) to the Great Lakes.

**"(A)** As part of the network provided for in this paragraph, and not later than December 31, 1991, the Administrator shall establish in each of the 5 Great Lakes at least 1 facility capable of monitoring the atmospheric deposition of hazardous air pollutants in both dry and wet conditions.

**"(B)** The Administrator shall use the data provided by the network to identify and track the movement of hazardous air pollutants through the Great Lakes, to determine the portion of water pollution loadings attributable to atmospheric deposition of such pollutants, and to support development of remedial action plans and other management plans as required by the Great Lakes Water Quality Agreement.

**"(C)** The Administrator shall assure that the data collected by the Great Lakes atmospheric deposition monitoring network is in format compatible with databases sponsored by the International Joint Commission, Canada, and the several States of the Great Lakes region.

**"(3) MONITORING FOR THE CHESAPEAKE BAY AND LAKE CHAMPLAIN.**—The Administrator shall establish at the Chesapeake Bay and Lake Champlain atmospheric deposition stations to monitor deposition of hazardous air pollutants (and in the Administrator's discretion, other air pollutants) within the

Chesapeake Bay and Lake Champlain watersheds. The Administrator shall determine the role of air deposition in the pollutant loadings of the Chesapeake Bay and Lake Champlain, investigate the sources of air pollutants deposited in the watersheds, evaluate the health and environmental effects of such pollutant loadings, and shall sample such pollutants in biota, fish and wildlife within the watersheds, as necessary to characterize such effects.

**"(4) MONITORING FOR COASTAL WATERS.**—The Administrator shall design and deploy atmospheric deposition monitoring networks for coastal waters and their watersheds and shall make any information collected through such networks available to the public. As part of this effort, the Administrator shall conduct research to develop and improve deposition monitoring methods, and to determine the relative contribution of atmospheric pollutants to pollutant loadings. For purposes of this subsection, 'coastal waters' shall mean estuaries selected pursuant to section 320(a)(2)(A) of the Federal Water Pollution Control Act or listed pursuant to section 320(a)(2)(B) of such Act or estuarine research reserves designated pursuant to section 315 of the Coastal Zone Management Act (16 U.S.C. 1461).

**"(5) REPORT.**—Within 3 years of the date of enactment of the Clean Air Act Amendments of 1990 and biennially thereafter, the Administrator, in cooperation with the Under Secretary of Commerce for Oceans and Atmosphere, shall submit to the Congress a report on the results of any monitoring, studies, and investigations conducted pursuant to this subsection. Such report shall include, at a minimum, an assessment of—

**"(A)** the contribution of atmospheric deposition to pollution loadings in the Great Lakes, the Chesapeake Bay, Lake Champlain and coastal waters;

**"(B)** the environmental and public health effects of any pollution which is attributable to atmospheric deposition to the Great Lakes, the Chesapeake Bay, Lake Champlain and coastal waters;

**"(C)** the source or sources of any pollution to the Great Lakes, the Chesapeake Bay, Lake Champlain and coastal waters which is attributable to atmospheric deposition;

**"(D)** whether pollution loadings in the Great Lakes, the Chesapeake Bay, Lake Champlain or coastal waters cause or contribute to exceedances of drinking water standards pursuant to the Safe Drinking Water Act or water quality standards pursuant to the Federal Water Pollution Control Act or, with respect to the Great Lakes, exceedances of the specific objectives of the Great Lakes Water Quality Agreement; and

**"(E)** a description of any revisions of the requirements, standards, and limitations pursuant to this Act and other applicable Federal laws as are necessary to assure protection of human health and the environment.

**"(6) ADDITIONAL REGULATION.**—As part of the report to Congress, the Administrator shall determine whether the other provisions of this section are adequate to prevent serious adverse effects to public health and serious or widespread environmental effects, including such effects resulting from indirect exposure pathways, associated with atmospheric deposition to the Great Lakes, the Chesapeake Bay, Lake Champlain and coastal waters of hazardous air pollutants (and their atmospheric transformation products). The Administrator shall take into consideration the tendency of such pollutants to bioaccumulate. Within 5 years after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall, based on such report and determination, promulgate, in accordance with this

section, such further emission standards or control measures as may be necessary and appropriate to prevent such effects, including effects due to bioaccumulation and indirect exposure pathways. Any requirements promulgated pursuant to this paragraph with respect to coastal waters shall only apply to the coastal waters of the States which are subject to section 328(a).

**"(n) Other Provisions.**

**"(1) ELECTRIC UTILITY STEAM GENERATING UNITS.—**

**"(A)** The Administrator shall perform a study of the hazards to public health reasonably anticipated to occur as a result of emissions by electric utility steam generating units of pollutants listed under subsection (b) after imposition of the requirements of this Act. The Administrator shall report the results of this study to the Congress within 3 years after the date of the enactment of the Clean Air Act Amendments of 1990. The Administrator shall develop and describe in the Administrator's report to Congress alternative control strategies for emissions which may warrant regulation under this section. The Administrator shall regulate electric utility steam generating units under this section, if the Administrator finds such regulation is appropriate and necessary after considering the results of the study required by this subparagraph.

**"(B)** The Administrator shall conduct, and transmit to the Congress not later than 4 years after the date of enactment of the Clean Air Act Amendments of 1990, a study of mercury emissions from electric utility steam generating units, municipal waste combustion units, and other sources, including area sources. Such study shall consider the rate and mass of such emissions, the health and environmental effects of such emissions, technologies which are available to control such emissions, and the costs of such technologies.

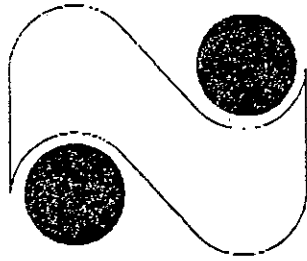
**"(C)** The National Institute of Environmental Health Sciences shall conduct, and transmit to the Congress not later than 3 years after the date of enactment of the Clean Air Act Amendments of 1990, a study to determine the threshold level of mercury exposure below which adverse human health effects are not expected to occur. Such study shall include a threshold for mercury concentrations in the tissue of fish which may be consumed (including consumption by sensitive populations) without adverse effects to public health.

**"(2) COKE OVEN PRODUCTION TECHNOLOGY STUDY.—**

**"(A)** The Secretary of the Department of Energy and the Administrator shall jointly undertake a 6-year study to assess coke oven production emission control technologies and to assist in the development and commercialization of technically practicable and economically viable control technologies which have the potential to significantly reduce emissions of hazardous air pollutants from coke oven production facilities. In identifying control technologies, the Secretary and the Administrator shall consider the range of existing coke oven operations and battery design and the availability of sources of materials for such coke ovens as well as alternatives to existing coke oven production design.

**"(B)** The Secretary and the Administrator are authorized to enter into agreements with persons who propose to develop, install and operate coke production emission control technologies which have the potential for significant emissions reductions of hazardous air pollutants provided that Federal funds shall not exceed 50 per centum of the cost of any project assisted pursuant to this paragraph.





**NORTHWEST  
PULP & PAPER**

DEPARTMENT OF ENVIRONMENTAL QUALITY  
Air Quality Control  
Date Received: 7/9/93  
Acknowledged By: T.M.

P26  
FOP B

By Facsimile

July 9, 1993

Mr. Steve Greenwood  
Air Quality Division  
Department of Environmental Quality  
811 S.W. 6th Avenue  
Portland, OR 97204

RE: NWPPA COMMENTS ON THE FEDERAL OPERATING PERMIT PROGRAM PROPOSALS

Dear Steve:

The Northwest Pulp and Paper Association (NWPPA) is pleased for the opportunity to have worked with you and your staff in developing the proposals for a federal operating permit program. The attached comments on your proposals are on behalf of NWPPA's Oregon members, including Boise Cascade, Georgia-Pacific, James River, Pope & Talbot, Simpson Paper and Weyerhaeuser. We look forward to the Department's response to these comments.

NWPPA supports the comments of Associated Oregon Industries (AOI) and by this reference incorporates the AOI comments herein. In addition to the AOI comments, we also make the following comments:

**Definitions 340-28-110**

(3) Delete the phrase "regulated pollutant (for presumptive fee calculation)" which is undefined in your proposal and replace it with "pollutant subject to interim emission fees under OAR 340-28-2420.

(9)(c) Just because a term or condition appears in an existing ACDP does not make it an applicable requirement. For example, some permit conditions in existing ACDP permits are based on rules that will change as a result of this rulemaking and related rulemakings. These permit conditions should not be considered to be applicable requirements. DEQ must make it clear that this paragraph includes only those conditions that are based on current rules. Neither the FCAA nor the EPA require existing permit conditions in state operating permits to become applicable requirements for federal operating permit program sources. **This proposal is more stringent than required.**

(22) A "variation" is hardly a definition of "constant." This definition requires clarification, at least as to whether it includes down time in calculating the average process rate. A better definition would be "A process rate which does not vary by more than 25 per cent in 90 per cent of process rate changes." Or alternatively, the rule could use the term "Constant Rate Process" defined as "A process in which 90 per cent of the changes in routine process rates are less than 25 per cent."

(24) The lack of a definition of "actual emission" combined with the use of the term "calculated emissions" could give rise to confusion when applied outside of the interim fee rules for which this definition was drafted. Delete "will adequately reflect calculated emissions and actual" and insert "measure".

(27) Delete "or EPA" as EPA reviews proposed permits and not draft permits. See our comment for OAR 340-28-2200(1)(a)(E).

(36)(a) Change the second sentence to read as follows:

An activity is any process, operation, action, or reaction (e.g., chemical) at a stationary source that *[produces or]* emits air pollutants.

This change will exclude processes that produce air pollutants that are, for example, in solution or contained within vessel or piping. The department need not be concerned with regulating activities that do not actually emit air pollutants.

(41) What is an "application review report" for federal operating permit program sources? If such a report will exist for federal operating permit source, once the permit is issued, the permit must contain all requirements. Delete the reference in this paragraph.

(56)(b) The phrase at the end ("or support the major industrial grouping") is not in the EPA rule and should be deleted. We believe that the EPA definition accomplishes the objective of the department in assuring that all stationary sources at a facility are covered by a single permit. The EPA language "or any group of stationary sources that are located on one or more contiguous or adjacent properties" should suffice. This proposal is more stringent than required.

#### **Records; Maintaining and Reporting 340-28-1140**

(2) The rules should state the conditions that would allow DEQ to increase reporting frequency. For federal operating permit program sources, the other reporting requirements—under operational flexibility, compliance reporting (e.g., prompt reporting of deviations), and for any significant increases in emissions—should suffice. For ACDP-only sources, the triggers for more frequent reporting should be described (e.g., NAAQS violation, permit violations, significant threat to human health or environment), otherwise this proposal should be withdrawn.

#### **Fees and Permit Duration 340-28-1750**

(7) There is no need to limit the duration of a synthetic minor permit to 5 years as are federal operating permits. Synthetic minor permits are simply ACDP permits and nothing more.

#### **Policy and Purpose 340-28-2100**

This section should be revised to include a statement that the Department and the Commission intend that the requirements of the rules applicable to sources required to have a federal operating permit are no more stringent than required by the Clean Air Act and EPA regulations, except where a determination that a scientifically defensible need to protect public health or the environment has been expressly identified.

7/9/93  
MM**Applicability 340-28-2110**

- (1)(e) This paragraph should restate § 70.3(a)(5) rather than as proposed.
- (4)(c) Instead of this language, include a new (1)(g): "Any other source which chooses to apply for a federal operating permit." Delete (4)(c) as it is not an exemption.

**Permit Applications 340-28-2120**

(1)(a)(A) The language "or on or before such earlier date as the Department may establish" is far too open ended. DEQ should either drop this requirement or propose a schedule for requiring applications prior to when required. While it is understood that the FCAA requires some applications prior to the eventual deadline, sources must be assured of some definitive and reasonable time to prepare. NWPPA suggests that the rules require the DEQ to provide at least one year notice prior to an application due date.

(1)(a)(D) The federal timeline is 6 months prior to expiration, § 70.5(a)(1)(iii). When would the DEQ ever "approve" a longer time line? DEQ should simply include a timeframe and stick to it. NWPPA suggests 6 months.

(1)(b)(C) Delete the first use of "adequate" and substitute "received" for "deemed adequate". The DEQ needs no additional authority implied by the use of an "adequacy" determination. DEQ should specify in its rule what is required in an application.

(3)(f)(A) Delete this paragraph and substitute: "Any monitoring recordkeeping or reporting required by 40 CFR Part 64 in effect as of the effective date of this rule."

(3)(f)(E) The phrasing is awkward here: How could a source submit the records of required monitoring information with an application? This requirement is more consistent with a permit condition—as opposed to an application requirement—as provided at § 70.6(a)(3)(C)(ii)(A).

(3)(f)(H) Open-ended conditions such as this are strongly opposed and should be deleted from the rule. What the DEQ determines as necessary to processing a permit application should be spelled out in the rule. Perhaps the Department intended to propose this language in the context of § 70.5(c)(7) which requires other information required to define alternative operating scenarios.

(4)(b) Except for the last sentence, this entire paragraph provides more confusion than clarity. It would not affect EPA approval of the program if the paragraph were deleted. Does DEQ actually "approve" of monitoring data? If such data is approved, but better data exists, would this clause prevent the source from using the better data?

The requirement to validate emissions factors severely restricts what will be the most popular and efficient method of estimating emissions on applications. For most emissions, the emission factors will be based on very few samples and validation will be difficult. How will a source validate the use of an emission factor? NWPPA strongly opposes the interim fee rule concept for "verified" emissions factors in this context (see comments below). The department will always have the authority to review emissions factors cited in applications as the basis for quantifying an emission. In doing so, the department must balance the need for more accurate quantifications with the costs of obtaining the information and the net benefit to the environment for incurring those costs.

The requirement to use emissions data that is "more representative" needs better explanation. What if two tests provide different results under the same or similar operating conditions?

**Standard Permit Requirements 340-28-2130**

(3)(a)(A) This entire paragraph is not required by EPA rule to be included in permit applications. The adoption of the Continuous Monitoring Manual and Source Test Manual occurred after the passage of HB 2175 and was therefore subject to the stringency provisions of ORS 468A.310. The department has yet to provide a scientific determination that such action was necessary to protect human health and the environment. Furthermore, the adoption of the manuals cannot be relied upon to impose those more stringent conditions through federal operating permits. **This is more stringent than required.**

(3)(a)(C) If the list of the types of monitoring methods at the end of this paragraph is not exhaustive (including but not limited to . . . ), why include it at all? The EPA language preceding the list sufficiently states what monitoring conditions must be in permits. If DEQ does not eliminate this last sentence and list, DEQ should include "emission factors" as a prominent monitoring method, as this is distinct from engineering calculations.

(3)(a)(E) DEQ should delete this paragraph. The Interim Fee Rules were never designed nor intended to be used for purposes of compliance. While we have an interest making compliance determination and setting fees using the same methods, the methods provided in the interim fee rules are not acceptable. (see comments below under Interim Emission fee Rules).

(3)(b)(A)(vii) This entire paragraph should be deleted as it is not required by EPA rule to be included in a federal operating permit. **This is more stringent than required.**

(3)(c)(B) This entire paragraph should be deleted as it is not required by EPA rule to be included in a federal operating permit. **This is more stringent than required.**

The proposal omits the provisions of § 70.6(a)(3)(iii)(B), particularly the definition of what is "prompt" reporting of deviations. The department should include in the rule that the requirement for prompt reporting of deviations is conclusively satisfied by reporting excess emissions under OAR 340-28-1440.

**State-enforceable Requirements 340-28-2140**  
**Federally-enforceable Requirements 340-28-2150**

These two sections should be redrafted to accurately reflect § 70.6(b). First, federally enforceable terms and conditions in a FOP are by definition enforceable by EPA and citizens, and need not be labelled as federally enforceable as this will only complicate the permit. However, if the requirements are not federal requirements, then they must be labelled as such and are not subject to any requirements of the federal operating permit program (except for the requirement of § 70.6(b)(2) that they be labelled as not federally enforceable). Moreover, because the state-only requirements are not federally-enforceable, they are not subject to EPA enforcement or citizen suits.

**Compliance Requirements 340-28-2160**

(7) Open-ended conditions such as this are strongly opposed and should be deleted from the rule. What the DEQ determines should be necessary to processing a permit application should be spelled out in the rule. **This is more stringent than required.**

**Permit Issuance 340-28-2200**

(1)(a)(E) The proposal is correct in that the forms of a permit are, in order: (1) a draft permit (subject to public comment, etc.); (2) a proposed permit (for EPA and affected state review); and (3) a final permit. While this is not explicitly stated in the rule, it is the proper approach. It may help to more clearly reveal the stages of permit processing somewhere in the rule.

**Administrative Permit Amendments 340-28-2230**

(1)(h) The last phrase in this paragraph should be amended to also reference construction permits processed under OAR 340 Division 32 with the substantial equivalent of federal operating permit procedures. Thus, an ACDP issued for a new HAP source using the full procedures could be administratively amended into a federal operating permit.

**Significant Permit Modifications 340-28-2260**

The proposal omits the important deadline imposed upon the department by EPA rules, § 70.7(e)(4)(ii) that requires a majority of significant permit modifications to be processed within nine months of receipt of a complete application. This is more stringent than required. NWPPA suggests that the rules state that all significant modifications will be processed within 9 months.

**Reopenings 340-28-2270**

(a)(A) The reference to OAR 340-28-2120(1)(a) and (b) should be changed to OAR 340-28-2210, providing for extension of an existing permit and any permit shield if a complete and timely renewal application is submitted and the permitting authority has failed to issue or deny the renewal permit prior to expiration of the existing permit.

(1)(a)(D) Strike the reference to EPA as the proper procedures for responding to a reopening by EPA are included in (2).

**Public Participation 340-28-2280**

The EPA language "shall provide adequate procedures" should be deleted, and should be replaced with "shall follow the procedures in this section" or the like.

**Permit Review by EPA and Affected States 340-28-2300**

(1)(c) Place a period after FCAA and delete the remainder of the sentence. EPA does not review whether the program is in compliance with state rules, unless they are part of the SIP.

(3)(a) Delete "drafted" and insert "proposed". See comments to 340-28-2200.

**Major Source Interim Emission Fees**

NWPPA comments on the interim fee rules for several purposes: One, to seek changes during this rulemaking for the collection of the new \$23.50 interim fee on 1992 emissions expected under SB 86. Two, to prevent the extension of certain interim fee rules for purposes of compliance. And three, to identify issues that may be expected to arise in future rulemaking on permanent fee rules. We understand that the department will seek emergency rules to implement permanent fees. If so, NWPPA will not have the opportunity to comment until after

**General Permits 340-32-250**

(1)(b) Delete the phrase "or OAR 340-32-500 through OAR 340-32-5000" as this is not a federal requirement. The phrase would be acceptable only if the final language of the cited sections implements only those requirements of FCAA 112(d) and nothing more. This is more stringent than required.

**Quantification of Emissions 340-32-260**

(2) Elective PSEs should be available for other purposes (e.g., trading) and should not be limited to paying fees on permitted emissions. The department should clarify that trading of HAP emissions will be allowed at least to the degree allowed under EPA trading rules or MACT determinations. At a minimum, the department should state its intent to address trading issues in other rulemakings. Because EPA allows emissions caps for HAP for broader purposes, this is more stringent than required.

**Emissions Limitation for New Major Sources 340-32-500**

(4) While NWPPA supports the AOI comments on this section, we believe additional amendments are necessary. NWPPA suggests that consistent with the EPA's adoption of de minimis quantities through guidance—as opposed to rule—this rule should refer to de minimis quantities specified by the department in guidance, without including the EPA guidance values in rule.

**Emissions Limitation for Existing Major Sources 340-32-2500**

(2)(a)(A) & (B) What is the purpose of the "but not limited to" language? What other measures might apply? This language should be deleted unless there is a compelling need to keep it.

(2)(b) Clarify that it is a federal operating permit that the source must apply for. The second sentence in this paragraph should be deleted, as it is not required by the FCAA. This is more stringent than required.

**Requirements for Modification of Existing Major Sources 340-32-4500**

(3) Please see the comments for 340-32-500(4).

(2) Delete "as determined by the Department" because the FCAA requires existing major sources undergoing a modification only to comply with case-by-case MACT standards for existing sources and not for new sources. However, if a source found it more efficient to develop and comply with the new source MACT standard, that should conclusively satisfy the requirement for existing source MACT for modifications.

**Requirements for Area Sources 340-32-5000**

(1)(a) First, only those area sources covered by EPA rule are subject to these requirements. Under FCAA 112(d)(5), GACT or management practices may be required for area sources under FCAA 112(d)(5), in lieu of MACT standards developed under 112(d)(2) or residual risk standards under 112(f). GACT will not be developed by state rule, as it will apply in this state only if EPA promulgates such a requirement. The area source program under 1(k) does not impose any burdens on the state. This is more stringent than required.

DEPARTMENT OF ENVIRONMENTAL QUALITY  
Air Quality Control  
Date Received: \_\_\_\_\_  
Acknowledged By: PA

(1)(b) Delete this entire paragraph for the reasons stated above.

**Accidental Release Prevention 340-32-5100**

(1) The department should ensure that the EPA Part 63 rule is final prior to incorporating Table 4 into state rule. Better yet, the department should delay adoption of any accidental release requirements until after EPA regulations are final.

(2) This clause is far broader than that required by § 112(r). The general duty under the FCAA is "to identify hazards which may result from such releases using appropriate hazard assessment techniques, to design and maintain a safe facility taking such steps as are necessary to prevent releases, and to minimize the consequences of accidental releases which do occur." Moreover, the proposal omits extremely important language from § 112(r) pertaining to limitations of liability under citizen suit provisions of the FCAA and suits for injury or property damage due to releases. **This is more stringent than required.**

(3) - (5) Risk management plans are not required until such time as EPA promulgates regulations under FCAA § 112(r)(7)(B). Until such time, the department must have a scientifically defensible need to address accidental releases. **This is more stringent than required.**

The proposal omits the important provision of FCAA § 112(r)(7)(F) that sources are not subject to the federal operating permit program solely because the source is subject to requirements for accidental releases.

# OGDEN MARTIN SYSTEMS OF MARION, INC.

550 BROOKLAKE RD., N.E.  
P.O. BOX 9126  
BROOKS, OREGON 97305  
(503) 393-0890



P24  
P4  
FOP 7

8 July 1993

Oregon Department of Environmental Quality  
Air Quality Division  
811 SW 6th Avenue  
Portland, OR 97204

Attn: Kevin Downing

Re: Ogden Martin Systems of Marion, Inc.  
Marion County Solid Waste-to-Energy Facility, Brooks, Oregon

Subject: Comments on proposed Operating Permit Rules (Division 28) pursuant to Title V of the Federal Clean Air Act Amendments of 1990 and Hazardous Air Pollutant Control Rules (Division 32) pursuant to Title III of the Federal Clean Air Act Amendments of 1990.

Dear Mr. Downing:

On behalf of Ogden Martin Systems of Marion, Inc. (OMSM) and Marion County Solid Waste Management, I am writing to provide comments on the Oregon Department of Environmental Quality's (DEQ) proposed operating permit program rules and hazardous air pollutant (HAP) control rules. OMSM is contracted to Marion County Solid Waste Management for the operation of this facility. For convenience of the review, I have restated the proposed language to provide context for the comments. Alternate text recommendations are offered for your consideration where appropriate. (Please note: Underlined text is that which OMSM propose be adopted as part of the final regulations. [~~Text that OMSM would like deleted is bracketed, in bold type and crossed out.~~])

## GENERAL COMMENTS

1. Will there be workshops for industry to review final requirements prior to permit application submittal deadlines?
2. OMSM requests that DEQ prepare an Operating Permit/Air Toxic Application Guidance Manual, updated annually, to aid the regulated community in understanding the complexities of the new permitting program(s). When permittees know the process and are given resource information it will benefit both the source and the DEQ. DEQ staff would spend less time answering



questions and working to obtain complete applications. Any guidance manual should provide a cross reference between 40 CFR Part 70 and the State Operating Permit Rule. A guidance manual on OAR 340 Division 32 would also be helpful.

3. OMSM requests that DEQ differentiate between state and federal requirements in the final regulations. This differentiation could be accomplished by using a different font style (i.e., *italics*) or by underlining. This would also be a good technique to utilize in any guidance documents the Department issues.
4. Please clarify if the Department expects existing, permitted facilities to resubmit information and reports that were submitted during the original permit review process or subsequent permit renewals. Although the DEQ intends to allow the application to cross-reference relevant materials, if they are current and clear with respect to information required in the permit application, this is not clearly stated in the proposed regulations.

Does the Department want to receive copies of reports already on file at their office? Is there a way that previously submitted documents that are still applicable could be identified and not be resubmitted? This process could be started by Department staff immediately and provided to existing facilities during a preapplication meeting. Again, this needs to be clearly articulated in the proposed rules and draft permit application documents. OMSM feels that sources should not have to resubmit information which DEQ already has on file.

5. Will the regulated community have an opportunity to comment on proposed source permit application forms prior to them being released in final form? If so, what will the public review process entail?
6. Fees associated with air toxics. Will a Title V source have to pay double fees for pollutants currently regulated with PSELs which are also regulated under Division 32 (i.e., NO<sub>x</sub>)?

#### SPECIFIC COMMENTS BY DOCUMENT

##### **I. STATE OF OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY MEMORANDUM DATED MAY 17, 1993**

Page 16 states that the DEQ will begin to require submittal of Title V permit applications by February 1, 1994. If the effective date of the State's operating permit program is November 15, 1994, this approach runs counter to 40 CFR Part 70. This regulation requires that all affected sources submit permit applications within one year of the Environmental Protection Agency's (EPA) approval of the State's program.

This requirement was designed to provide a source with reassurance that the State's operating permit program would not be significantly modified by the EPA during the permit application process. Given the intent of 40 CFR Part 70.4(b)(11)(i) and 70.5(a)(1)(i), no source should be required to submit a draft application before November 15, 1994. Further, OMSM strongly recommends that DEQ extend the permit application deadline for MWC's, given the complexities associated with the new program for sources such as ours, until one year after EPA approves Oregon's program.

DEQ does not specify the criteria they will use to decide the order for permit application submission (i.e., whether a source will fall into the first, second, or third application group).

Regardless of the required submission date, all Title V sources should be provided with any guidance material and the appropriate forms as soon as they become available.

## OAR 340 DIVISION 28 - STATIONARY SOURCE AIR POLLUTION CONTROL AND OPERATING PERMIT RULES

### A. Definitions

1. Page A-4. 340-28-110(7) "Air Contaminant" means:

"...a dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon, acid or particulate matter, or any combination thereof."

Comment: This definition seems too broad. Alternative wording suggested as follows: "Air Contaminant" means a dust, fume, gas, mist, odor, smoke, vapor, ~~pollen,~~ soot, carbon, acid or particulate matter, or any combination thereof that is considered a criteria pollutant or is regulated pursuant to Title III Section 112 of the 1990 Clean Air Act Amendments.

2. Page A-5. 340-28-110(11)(a) & (b) "Baseline Concentration" means:

"...the ambient concentration level for sulfur dioxide and total suspended particulate which existed in an area during the calendar year 1978.....the ambient concentration level for nitrogen oxides which existed in an area during the calendar year 1988."

Comment: Why are two different years specified?

3. Page A-5. 340-28-110(13) "Baseline Period" means:

"...either calendar years 1977 or 1978. The Department shall allow the use of a prior time period upon determination that it is more representative of normal source operation."

Comment: The dates in this definition appear to be inconsistent with the dates in the definition for "Baseline Concentration". Furthermore, OMSM was not in operation during these dates and therefore cannot calculate "Actual Emissions" according to the definition found in 340-28-110(2). OMSM would like to propose that the word "prior" be changed to different.

4. Page A-6. 340-28-110(16) "Categorically insignificant activity" means:

"...an activity not included in the pollutant emitting activities which belong to the same industrial grouping, or Major Group (i.e., which have the same two digit code) as described in the Standard Industrial Classification Manual (U.S. Office of Management and Budget, 1987) including on-site motor vehicle operation at sources not associated with large amounts of fugitive road dust; natural gas and distillate oil space heating rated at less than 10 million British thermal units/hour; office activities; food service activities; janitorial activities; all personal care activities; groundskeeping activities; or on-site laundry activities."

Comment: OMSM thinks that the above categories are excellent. However, we would like the list expanded to include:

- Production of hot water for on-site personal use not related to any industrial process
- Routine housekeeping and facility/site upkeep activities such as painting, retarring roofs, or paving parking lots
- Facility/site fabrication operations for maintenance and repair activities such as forging, pressing, drawing, spinning, cutting, welding, fabricating, or extruding cold metals.
- Cleaning operations involving alkaline/phosphate and associated cleaners and burners, and high-pressure washing of equipment.
- Degreasing operations not to exceed 145 gallons per year
- Equipment used to test hydraulic or hydrostatic equipment
- In-house blueprint machines and related operations
- Maintenance and fueling of plant vehicles including storage tanks less than 2000 gallons
- Maintenance of APC equipment
- Use of safety devices including but not limited to fire extinguishers

5. Page A-9. 340-28-110(48) "Immediately" means:

"...as soon as possible but in no case more than one hour after the beginning of the excess emission period."

Comment: This definition is burdensome and could result in DEQ being notified about emission periods that do not actually constitute an excess emission period. Under the current definition, a source must notify DEQ of any spike even if it does not exceed the emission limit for the regulated averaging period. In addition, sometimes the source may not be able to determine if an excess emission period has begun until after the one hour limit.

OMSM would like to suggest the following alternative wording: "Immediately" means as soon as possible but in no case more than ~~one hour after the beginning of the excess emission period.~~ four hours after the permittee knew or should have known that an excess emission period occurred, taking into account the source's PSEL including the specified averaging periods.

6. Page A-13 Municipal Waste Combustors (MWC)

Comment: OMSM would like to propose the addition of the following definition. Municipal Waste Combustors or Combustion Units (MWC): means an incinerator which is operated or utilized for the combustion of solid waste for the purpose of recovering heat or energy, and which utilizes high temperature thermal destruction technologies. This definition should be numbered 340-28-58, with subsequent definitions renumbered accordingly.

B. Highest and Best Practicable Treatment and Control Requirements

Page A-23. 340-28-600

Comment: How does the "highest and best practicable treatment and control" requirement impact and/or interface with BACT and LAER?

C. Rules Applicable to Sources Required to Have Air Contaminant Discharge Permits or Federal Operating Permits

Page A-26. 340-28-900 Applicability.

Comment: OMSM requests that DEQ clarify that a source will have only one permit (i.e., either an ACDP or a Title V permit). The proposed regulations appear to require OMSM to have both a Title V permit and an ACDP. The Title V permit would be required because OMSM qualifies as a major source under DEQ's definition. The ACDP would appear to be required because OMSM disposes of medical waste (See Table 4, page A-54). A consolidated permit will benefit both the source and the regulatory agencies.

D. Excess Emissions and Emergency Provision

1. Page A-35. 340-28-1410(3) Planned Startup and Shutdown.

"Sources shall notify the Department of a planned startup or shutdown event which may result in excess emissions if required by permit condition or if the source is located in a nonattainment area for a pollutant which may be emitted in excess of applicable standards. When required, notification shall be made by telephone or in writing as soon as possible prior to the event and shall include the date and estimated time and duration of the startup or shutdown event."

Comment: OMSM was under the impression that the agreement reached during the May Advisory Council Meeting only required annual submission of the dates of planned startups and shutdowns. This requirement is not evident in the above language. OMSM believes that an annual notification in this area is adequate as most facilities know the schedule of these events by the first of each calendar year. OMSM does agree that any changes in the notification should be communicated to DEQ as soon as possible. Therefore, OMSM would like to recommend the following changes in the above language: Sources shall notify the Department of a planned startup or shutdown event which may result in excess emissions if required by permit condition or if the source is located in a nonattainment area for a pollutant which may be emitted in excess of applicable standards. ~~[When required, notification shall be made by telephone or in writing as soon as possible prior to the event and shall include the date and estimated time and duration of the startup or shutdown event.]~~ Written notification shall be submitted to the Department no later than the 15th of January of each calendar year. Any changes in the schedule submitted to the Department shall be communicated as soon as possible but in no case more than 24 hours following the beginning of the startup or shutdown event. Notification shall include the date and estimated time and duration of the startup or shutdown.

2. Pages A-39 through A-41.

Comment: The term "technology-based standards" is used throughout the sections regarding excess emissions, reporting and enforcement. However, this term is not defined and leaves sources unsure whether regulatory relief is available for excess emissions attributable to genuine emergencies. This terminology needs to be clarified or deleted.

3. Page A-37. 340-28-1430(1) Upsets and Breakdowns.

"For upsets or breakdowns caused by an emergency and resulting in emissions in excess of technology-based standards, the source may be entitled to an affirmative defense to enforcement if..."

Comments: OMSM feels that if excess emissions are due to any legitimate emergency the source should be entitled to affirmative defense as long as they meet the conditions listed in (a) and (b). Therefore, OMSM would like to propose the following language: For upsets or breakdowns caused by an emergency and resulting in emissions in excess of ~~technology-based standards,~~ the PSEL(s), the source may be entitled to an affirmative defense to enforcement if...

4. Page A-39. 340-28-1440(1)(e) Reporting Requirements.

"Where applicable, evidence supporting any claim that emissions in excess of technology-based limits were due to an emergency pursuant to OAR 340-28-1460."

Comments: OMSM proposes the following changes to the above language: Where applicable, evidence supporting any claim that emissions in excess ~~technology-based standards,~~ of the PSEL(s) were due to an emergency pursuant to OAR 340-28-1460. The rationale for making this change is the same as above.

5. Page A-40. 340-28-1450(1) Enforcement Action Criteria.

"Where applicable, the source submitted a description of any emergency which may have caused emissions in excess of technology-based limits..."

Comments: The language in this section should be changed to reflect the language proposed in the section on upsets and breakdowns: Where applicable, the source submitted a description of any emergency which may have caused emissions in excess of ~~technology-based standards,~~ PSEL(s)...

## E. Rules Applicable to Sources Required to have Federal Operating Permits

1. Page A-85. 340-28-2120(3)(c)(D) Permit Applications.

"The application shall include a list of all categorically insignificant activities and an estimate of all emissions of regulated air pollutants from those activities which are designated insignificant because of insignificant mixture usage or aggregate insignificant emission levels..."

Comment: MSM feels that DEQ should not require a source to submit an estimate of emissions for activities that have already been designated insignificant. This defeats the purpose of the category. OMSM would like to propose the following alternative language: The application shall include a list of all categorically insignificant activities ~~[and an estimate of all emissions of regulated air pollutants from those activities which are designated insignificant because of insignificant mixture usage or aggregate insignificant emission levels]~~ and an estimate of all emissions of regulated air pollutants from those activities which are designated insignificant because of insignificant mixture usage or aggregate insignificant emission levels However, other information required by this part shall not be required except as provided in this subpart. If requested by the Department, the permittee shall provide an estimate of emissions from any activity described as categorically insignificant. The Department shall request such an estimate if it finds that the emissions from these activities, in addition to other emissions from the stationary source, could make the stationary source subject to different applicable requirements....

2. Page A-90. 340-28-2130(3)(a)(C) Monitoring and Related Recordkeeping and Reporting Requirements.

"Where the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit, as reported pursuant to OAR 340-28-2130(3)(c)...."

Comment: Does this statement require that a source with a federal operating permit test annually for all emissions for which the source has a PSEL? If so, this requirement is more stringent than existing regulations. OMSM is concerned that the above language would require more testing than is currently required either by existing regulations or current permit requirements. The current permit does not require testing for all PSELs on an annual or more frequent basis.

3. Page A-94. 340-28-2140 State-enforceable Requirements.

"The Department shall specifically designate as not being federally enforceable any terms and conditions included in the permit that are not required under the FCAA or under any of its applicable requirements. Terms and conditions so designated are subject to the requirements of OAR 340-28-2200 through 340-28-2290, OAR 340-28-2300, and OAR 340-28-2140, other than those contained in OAR 340-28-2150. All terms and conditions in a federal operating permit are enforceable by the Department."

Comment: Are state-enforceable requirements covered under the permit shield if they are not also federally enforceable?

4. Page A-97. 340-28-2190(1)(a) & (b) Permit Shield.

"Except as provided in OAR 340-28-2100 through 340-28-2300, the Department shall expressly include in a federal operating permit a provision stating that

compliance with conditions of the permit shall be deemed compliance with any applicable requirements as of the date of permit issuance, provided that:

- (a) Such applicable requirements are included and are specifically identified in the permit; or
- (b) The Department, in acting on the permit application or revision, determines in writing that other requirements specifically identified are not applicable to the source, and the permit includes the determination or a concise summary thereof."

Comment: The "or" at the end of (a) should be changed to "and" so that both applicable and nonapplicable requirements are clearly identified.

5. Page A-100. 340-28-2220 Alternative Operating Scenarios.

Comment: DEQ needs to clarify what constitutes a valid alternative operating scenario. It is clearly understood that switching the type of fuel used does constitute an alternative operating scenario. However, OMSM is not clear what other types of activities would fall under this definition. OMSM is particularly concerned that DEQ evaluate how this section would impact a source in terms of facility operation without changing fuel and no subsequent exceedance of any PSEL.

OMSM has air preheaters on each boiler. OMSM's ability to comply with their PSELS is not affected by the operation of the air preheaters (or lack of). Does changing from using to not using the air preheaters constitute an alternative operating scenario?

6. Page A-105. 340-28-2260(1)(b) Significant Permit Modifications.

"(1) ...Significant modifications shall include:...

- (b) every significant change in existing monitoring permit terms or conditions;"

Comment: It is difficult to know how much flexibility will be granted to the source given the current language. This provision needs to be clarified.

### III. OAR 340 DIVISION 32 - HAZARDOUS AIR POLLUTANT CONTROL RULES

1. OMSM has grave concerns regarding this proposed regulation. It is OMSM's understanding that the FCAA Amendments Title III Section 112, was intended to regulate those industries that knowingly use these chemicals as basic feedstock in production. Regulation of these chemicals that are incidental by-products of production was not intended. OMSM does not use any of the proposed HAPs as a basic feedstock. Our basic feedstock is municipal solid waste.

Under the current proposed language (340-32-210), OMSM would have to quantify 467 HAP as part of our Federal Operating Permit Application. OMSM recognizes that DEQ allows sources to choose from four methods (Source test data, CEM data, Emission Factors or Material Mass Balance) for this process. Source test methods are of limited use for this process, CEM data and Emission Factors are even more limited in their

applicability. The al option, Material Mass Balance is t an option because of the heterogeneous nature of the fuel (i.e., garbage) that is burned at the facility.

Please see the Table "Chemicals under OAR 340 Division 32", pages 1 through 17 (Attachment 1). OMSM has arranged the information for the proposed 467 HAPs in the attached Table and indicates which, if any, of the four methods can be used by MWCs to quantify a proposed HAP. As Attachment 1 clearly indicates, OMSM would only be able to quantify approximately 10% of the chemicals on the proposed list. Quantifying the remaining chemicals is not possible using EPA reference methods specified in 40 CFR 60 Appendix A.

Furthermore, it is clear that the United States Congress intended that MWCs be regulated pursuant to the FCAA Amendments of 1990, Title III Section 129. Upon reviewing the proposed regulations, OMSM notes that no reference is made to the regulations for MWC sources under Section 129. Does DEQ plan to have specific requirements for MWCs under a subsequent rulemaking? If so, when? Or, does DEQ plan to implement the standards required by Section 129 under the structure proposed in this rule?

Section 129(a)(4) of Title III of the FCAA Amendments was designed specifically to address air toxics and limitation of emissions for MWC Sources. This section lists 11 parameters (NO<sub>x</sub>, SO<sub>2</sub>, particulate matter (total and fine) and opacity, HCl, CO, Cd, Hg, dioxins and dibenzofurans) for MWC. These and the additional parameters in the current ACDP permit (NO<sub>x</sub>, SO<sub>2</sub>, particulate matter and opacity, HCl, CO, Cd, Hg, Pb, Be, F, VOCs, dioxins and dibenzofurans) should be the only ones that OMSM should be required to quantify as part of the permit application process.

Furthermore, Section 129 clearly states in paragraph (c) that regulations regarding monitoring "...shall contain provisions regarding the frequency of monitoring, the test methods and procedures validated on solid waste incineration units..." OMSM is unaware of which, if any of the procedures outlined in 40 CFR 60 Appendix A have been validated for MWC units. Any clarification which DEQ could provide on this issue would be appreciated.

Given the above information, OMSM would like to suggest the following change in the language of the proposed Applicability Section 340-32-210:

- (1) The provisions of this Division shall apply to any new, modified, or existing source which emits or has the potential to emit any HAP listed in Table 1 of OAR 340-32-130, except for municipal waste combustion units which are regulated pursuant to Section 129 of the FCAA.
- (2) The owner or operator of the following types of sources shall notify the Department and shall comply with the standards set forth in OAR 340-32-400 through 4500:
  - (a) any existing major source of HAP; except as exempted in Section 340-32-210(1) above...

2. Comment: OMSM suggests that the definition for MWC proposed for inclusion in Division 28 be added to Division 32. This definition is found on page 4 of this commentary.



3. Page B-9. 340 -240(2)(b) & (c) Permit to Operat.

- "(2) All HAP major source operating permit applicants shall determine and report to the Department....
- (b) all actual emissions totalling more than 1000 pounds per year of all chemicals listed under Title III Section 313 of the Superfund Amendments and Reauthorization Act of 1986 (Public Law 99-499) and not reported pursuant to subsection (a) of this section.
  - (c) all actual emissions totaling more than 1000 pounds per year of pollutants listed in Table 4 (OAR 340-32-5100) and not reported pursuant to subsections (a) and (b) of this section."

Comment: There is some ambiguity regarding the 1000 pound threshold. Does DEQ want it to be a 1000 pound per pollutant per year threshold; or a total of 1000 pounds per year of any combination of the parameters on the referenced tables? If it is the latter, OMSM would like to propose the following alternate language:

- (2) All HAP major source operating permit applicants shall determine and report to the Department:....
- (b) all actual emissions totalling more than 1000 pounds per year of any combination of [all] chemicals listed under Title III Section 313 of the Superfund Amendments and Reauthorization Act of 1986 (Public Law 99-499) and not reported pursuant to subsection (a) of this section.
  - (c) all actual emissions totaling more than 1000 pounds per year of any combination of pollutants listed in Table 4 (OAR 340-32-5100) and not reported pursuant to subsections (a) and (b) of this section.

Thank you for taking the time to review OMSM's comments. If you have questions or need additional information, I can be reached at 393-0890.

Sincerely,



Kelly J. Champion  
Environmental/Safety Administrator

Attachments

cc: Mirah Becker, Ogden Projects Inc  
Russ Johnston, Ogden Martin Systems of Marion  
Drew Lehman, Ogden Projects Inc  
Jim Sears, Marion County Solid Waste Management  
Ray Tulli, Ogden Projects Inc.

## CHEMICALS UNDER OAR 340 DIVISION 32

UNCLAS. NO.	CAA SEC. 112	SARA SEC. 313	ACC. RELE. ASE	CHEM. NAME	SOURCE TEST	EMISN. FACTOR	MAT. BAL.	CEM
75-07-0	X	X	X	Acetaldehyde				
60-35-5	X	X		Acetamide				
75-86-5			X	Acetone Cyanohydrin				
67-64-1		X		Acetone				
75-05-8	X	X		Acetonitrile				
98-86-2	X			Acetophenone				
53-96-3	X	X		2-Acetylaminofluorene				
74-86-2			X	Acetylene				
107-02-8	X	X	X	Acrolein				
79-06-1	X	X		Acrylamide				
79-10-7	X	X		Acrylic Acid				
107-13-1	X	X	X	Acrylonitrile				
814-68-6			X	Acrylyl Chloride				
3-00-2		X		Aldrin				
107-18-6			X	Allyl Alcohol				
107-05-1	X	X		Allyl Chloride				
107-11-9			X	Allylamine				
7429-90-5		X		Aluminum (Fume or Dust)				
1344-28-1		X		Aluminum Oxide				
82-28-0		X		1-Amino-2-Methylantraquinone				
117-79-3		X		2-Aminoanthraquinone				
60-09-3		X		4-Aminoazobenzene				
92-67-1	X	X		4-Aminobiphenyl				
82-26-0		X		1-Amino-2-Methylantra-Quinone				
7664-41-7		X	X	Ammonia	✓			
6484-52-2		X		Ammonium Nitrate (solution)				
7-20-2		X		Ammonium Sulfate (Solution)				
62-53-3	X	X	X	Aniline				

CAS NO.	CAA SEC. 112	SARA SEC. 313	ACC. RELE ASE	CHEM. NAME	SOURCE TEST	EMISN. FACTOR	MAT. BAL.	CEM
90-04-0	X	X		o-Anisidine				
104-94-9		X		p-Anisidine				
134-29-2		X		o-Anisidine Hydrochloride				
120-12-7		X		Anthracene				
7783-20-2			X	Antimony Pentafluoride				
	X	X		Antimony Compounds	✓			
	X	X		Arsenic Compounds	✓ (Draft)			
7784-34-1			X	Arsenous Trichloride				
7784-42-1	X		X	Arsine				
1332-21-4	X	X		Asbestos (Friable)	✓			
		X		Barium Compounds				
98-87-3		X	X	Benzal Chloride				
55-21-0		X		Benzamide				
98-16-8			X	Benzenamine,3-(Trifluoromethyl)				
71-43-2	X	X		Benzene	✓			
92-87-5	X	X		Benzidine				
98-07-7	X	X	X	Benzoic Trichloride (Benzotrichloride)				
98-88-4		X	X	Benzoyl Chloride				
100-44-7	X	X		Benzyl Chloride				
140-29-4			X	Benzyl Cyanide				
	X	X		Beryllium Compounds	✓			PL
92-52-4	X	X		Biphenyl				
	X			Bis (2-ethylhexyl) phthalate				
111-44-4		X		Bis (2-Chloroethyl) Ether				
542-88-1	X	X		Bis (chloromethyl) ether				
108-60-1		X		Bis (2-chloro-1-methylethyl) ether				
103-23-1		X		Bis (2-ethylhexyl) adipate				
10294-34-5			X	Boron Trichloride				
53-42-4			X	Boron Trifluoride Compound w/ Methyl Ethyl (1:1)				
7637-07-2			X	Boron Trifluoride				

CAS NO.	CAA SEC. 112	SARA SEC. 313	ACC. RELE ASE	CHEM. NAME	SOURCE TEST	EMISN. FACTOR	MAT. BAL.	CEM
7726-95-6			X	Bromine				
353-59-3		X		Bromochlorodifluoromethane (Halon 1212)				
75-25-2	X	X		Bromoform				
74-83-9		X		Bromomethane (Methylbromide)				
598-73-2			X	Bromotrifluorethylene				
75-63-8		X		Bromotrifluoromethane (Halon 1301)				
106-99-0	X	X	X	1,3-Butadiene				
106-97-8			X	Butane				
106-98-9			X	1-Butene				
25167-67-3			X	Butene				
107-01-7			X	2-Butene				
590-18-1			X	2-Butene-cis				
624-64-6			X	2-Butene-trans				
32-2		X		Butyl acrylate				
71-36-3		X		n-Butyl alcohol				
78-92-2		X		sec-Butyl benzyl phthalate				
75-65-0		X		tert-Butyl alcohol				
85-68-7		X		Butyl benzyl phthalate				
106-88-7		X		1, 2-Butylene oxide				
123-72-6		X		Butyraldehyde				
	X	X		Cadmium Compounds	✓	TBD		
156-62-7	X	X		Calcium Cyanamide				
105-60-2	X			Caprolactam				
133-06-2	X	X		Captan				
63-25-2	X	X		Carbaryl				
75-15-0	X	X	X	Carbon Disulfide				
56-23-5	X	X		Carbon Tetrachloride				
463-58-1	X	X	X	Carbonyl Sulfide				
80-9	X	X		Catechol				
133-90-4	X	X		Chloramben				
57-74-9	X	X		Chlordane				

CAS NO.	CAA SEC. 112	SARA SEC. 313	ACC. RELE ASE	CHEM. NAME	SOURCE TEST	EMISN. FACTOR	MAT. BAL.	CEM
7791-21-1			X	Chlorine Monoxide				
10049-04-4			X	Chlorine Dioxide				
7782-50-5	X	X	X	Chlorine				
79-11-8	X	X		Chloroacetic Acid				
532-27-4	X	X		2-Chloroacetophenone				
108-90-7	X	X		Chlorobenzene	✓			
510-15-6	X	X		Chlorobenzilate				
75-00-3		X		Chloroethane				
107-07-3			X	Chloroethanol				
67-66-3	X	X	X	Chloroform				
74-8-7-3		X		Chloromethane				
542-88-1			X	Chloromethyl Ether				
107-30-2	X	X	X	Chloromethyl Methyl Ether				
		X		Chlorophenols	✓			
126-99-8	X	X		Chloroprene				
57-98-2			X	2-Chloropropylene				
590-21-6			X	1-Chloropropylene				
1897-45-6		X		Chlorothalonil				
	X	X		Chromium Compounds	✓ (Draft)			
4680-78-8		X		C.I. Acid Green 3				
569-64-2		X		C.I. Basic Green 4				
989-38-8		X		C.I. Basic Red 1				
1937-37-7		X		C.I. Direct Black 38				
2602-46-2		X		C.I. Direct Blue 6				
16071-86-6		X		C.I. Direct Brown 95				
2832-40-8		X		C.I. Disperse Yellow 3				
3751-53-3		X		C.I. Food Red 5				
81-88-9		X		C.I. Food Red 15				
3118-97-6		X		C.I. Solvent Orange 7				
97-55-3		X		C.I. Solvent Yellow 3				
42-07-9		X		C.I. Solvent Yellow 14				
492-80-8		X		C.I. Solvent Yellow 34 (Aoramine)				

CAS NO.	CAA SEC. 112	SARA SEC. 313	ACC. RELE ASE	CHEM. NAME	SOURCE TEST	EMISN. FACTOR	MAT. BAL.	CEM
28-66-5		X		C.I. Vat Yellow 4				
		X		Copper Compounds				
		X		Cobalt Compounds				
	X			Coke Oven Emissions	✓			
8001-58-9		X		Creosote				
120-71-8		X		p-Cresidine				
108-39-4	X	X		m-Cresol				
95-48-7	X	X		o-Cresol				
106-44-5	X	X		p-Cresol				
1319-77-3	X	X		Cresols/Cresylic Acid (Isomers & mixture)				
4170-30-3			X	Crotonaldehyde				
123-73-9			X	Crotonaldehyde, (E)-				
98-82-8	X	X		Cumene				
80-15-9		X		Cumene hydroperoxide				
5-20-6		X		Cupferron				
	X			Cyanide Compounds				
506-77-4			X	Cyanogen Chloride				
460-19-5			X	Cyanogen				
110-82-7		X		Cyclohexane				
108-91-8			X	Cyclohexylamine				
75-19-4			X	Cyclopropane				
94-75-7	X	X		2,4-D salts & esters				
1163-19-5		X		Decabromodiphenyl oxide				
3547-04-4	X			DDE				
2303-16-4		X		Diallate (Carbanthioic acid)				
615-05-4		X		2, 4-Diaminoanisole				
39156-41-7		X		2, 4-Diaminoanisole sulfate				
101-80-4		X		4, 4-Didaminodiphany ether				
2376-45-8		X		Diaminotoluene (mixed isomers)				
95-80-7		X		2, 4-Diaminotoluene				

CAS NO.	CAA SEC. 112	SARA SEC. 313	ACC. RELE ASE	CHEM. NAME	SOURCE TEST	EMISN. FACTOR	MAT. BAL.	CEM
334-88-3	X	X		Diazomethane				
132-64-9	X	X		Dibenzofurans	✓	TBD		
19287-45-7			X	Diborane				
96-12-8	X	X		1,2-Dibromo-3-chloropropane				
106-93-4		X		1, 2-Dichlorobenzene	✓			
124-73-2		X		Dibromotetrafluoro-ethane (Halon 2402)				
84-74-2	X	X		Dibutylphthalate				
25321-22-6		X		Dichlorobenzene (mixed isomers)				
95-50-1		X		1,2-Dichlorobenzene	✓			
541-73-1		X		1,3-Dichlorobenzene	✓			
106-46-7	X	X		1,4-Dichlorobenzene	✓			
91-94-1	X	X		3,3-Dichlorobenzidine				
75-27-4		X		Dichlorobromomethane				
110-57-6			X	trans-1,4-Dichlorobutene				
75-71-8		X		Dichlorodifluoromethane (CFC-12)				
107-06-2	X	X		1,2-Dichloroethane (Ethylene Dichloride)				
111-44-4	X		X	Dichloroethyl Ether (Bis (2-Chloroethyl ) Ether)				
540-59-0		X		1,2-Dichloroethylene				
75-09-2	X	X		Dichloromethane (Methylene Chloride)				
120-83-2		X		2,4-Dichlorophenol				
542-75-6	X	X		1,3-Dichloropropene				
78-87-5	X	X		1,2-Dichloropropane (Propylene dichloride)				
78-88-6		X		2,3-Dichloropropene				
4109-96-0			X	Dichlorosilane				
76-14-2		X		Dichlorotetrafluoroethane (CFC-114)				
62-73-7	X	X		Dichlorvos				
115-32-2		X		Dicofol				

CAS NO.	CAA SEC. 112	SARA SEC. 313	ACC. RELE ASE	CHEM. NAME	SOURCE TEST	EMISN. FACTOR	MAT. BAL.	CEM
1464-53-5		X		Diepoxybutane				
111-42-2	X	X		Diethanolamine				
117-81-7		X		Di-(2-ethylhexyl) phthalate (DEHP)				
84-66-2		X		Diethyl Phthalate				
64-67-5	X	X		Diethyl Sulfate				
75-37-6			X	Difluoroethane				
119-90-4	X	X		3,3-Dimethoxybenzidine				
131-11-3		X		Dimethyl Phthalate				
60-11-7		X		4- Dimethylaminoazobenzene				
119-93-7		X		3,3-Dimethylbenzidine (o- Tolidine)				
79-44-7		X		Dimethylcarbanyl chloride				
68-12-2	X			Dimethyl Formamide				
131-11-3	X	X		Dimethyl Phthalate				
78-1	X	X		Dimethyl Sulfate				
2524-03-0			X	Dimethyl Phosphorochloridothioate				
57-14-7	X	X	X	1,1-Dimethylhydrazine				
124-40-3			X	Dimethylamine				
60-11-7	X	X		4- Dimethylaminoazobenzene				
121-69-7	X	X		N,N-Dimethylaniline				
119-93-7	X	X		3,3-Dimethylbenzidine (o-Tolidine)				
79-44-7	X	X		Dimethylcarbanyl Chloride				
75-78-5			X	Dimethyldichlorosilane				
105-67-9		X		2,4-Dimethylphenol				
463-82-1			X	2,2-Dimethylpropane				
99-65-0		X		m-Dinitrobenzene				
528-29-0		X		o-Dinitrobenzene				
70-25-4		X		p-Dinitrobenzene				
534-52-1	X	X		4,6-Dinitro-o-Cresol				
51-28-5	X			2,4-Dinitrophenol				



CAS NO.	CAA SEC. 112	SARA SEC. 313	ACC. RELE ASE	CHEM. NAME	SOURCE TEST	EMISN. FACTOR	MAT. BAL.	CEM
25321-14-6		X		Dinitrotoluene (mixed isomers)				
121-14-2	X	X		2,4-Dinitrotoluene				
606-20-2		X		2,6-Dinitrotoluene				
134-32-7		X		alpha-Naphylamine				
117-84-0		X		n-Dioctyl Phthalate				
123-91-1	X	X		1,4-Dioxane (1,4-Diethyleneoxide)				
122-66-7	X	X		1,2-Diphenyl Hydrazine (Hydrazobenzene)				
106-89-8	X	X	X	Epichlorohydrin (1-Chloro-2, 3-epoxypropane)				
106-88-7	X			1,2-Epoxybutane				
74-84-0			X	Ethane				
110-80-5		X		2-Ethoxyethanol				
140-88-5		X		Ethyl acrylate				
541-41-3		X		Ethyl chloroformate				
109-95-5			X	Ethyl Nitrite				
541-41-3		X		Ethyl chloroformate				
75-00-3	X		X	Ethyl Chloride (Chloroethane)				
100-41-4	X	X		Ethyl Benzene				
140-88-5	X	X		Ethyl Acrylate				
60-29-7			X	Ethyl Ether				
75-08-1			X	Ethyl Mercaptan				
107-00-6			X	Ethyl Acetylene				
75-04-7			X	Ethylamine				
106-93-4	X			Ethylene Dibromide (Dibromoethane)				
107-21-1	X	X		Ethylene Glycol				
74-85-1		X	X	Ethylene				
75-21-8	X	X	X	Ethylene Oxide	✓			
76-45-7	X	X		Ethylene Thiourea				
107-15-3			X	Ethylenediamine				
151-56-4	X	X	X	Ethyleneimine (Aziridine)				

CAS NO.	CAA SEC. 112	SARA SEC. 313	ACC. RELE ASE	CHEM. NAME	SOURCE TEST	EMISN. FACTOR	MAT. BAL.	CEM
34-3	X			Ethylidene Dichloride (1,2-Dichloroethane)				
	X			Fine Mineral Fibers				
2164-17-2		X		Fluometuron				
7782-41-4			X	Fluorine	✓			PL
50-00-0	X	X	X	Formaldehyde	✓			
107-16-4			X	Formaldehyde Cyanohydrin				
76-13-1		X		Freon 113 (Ethane)				
110-00-9			X	Furan	✓			
	X	X		Glycol Ethers				
76-44-8	X	X		Heptachlor				
87-68-3	X	X		Hexachloro-1,3-Butadiene				
118-74-1	X	X		Hexachlorobenzene				
77-47-4	X	X		Hexachlorocyclopentadiene				
67-72-1	X	X		Hexachloroethane				
1005-87-1		X		Hexachloronaphthalene				
822-06-0	X			Hexamethylene-1,6-Diisocyanate				
680-31-9	X	X		Hexamethylphosphoramide				
110-54-3	X			Hexane	✓			
302-01-2	X	X	X	Hydrazine				
10034-93-2		X	X	Hydrazine Sulfate				
7647-01-0	X	X	X	Hydrochloric Acid	✓	TBD		PL
74-90-8		X	X	Hydrocyanic Acid				
1333-74-0			X	Hydrogen				
7664-39-3	X	X	X	Hydrogen Flouride (Hydrofluoric Acid)	✓			
7722-84-1			X	Hydrogen Peroxide (conc. > 52%)				
7783-06-4	X		X	Hydrogen Sulfide	✓			
7783-07-5			X	Hydrogen Selenide				
123-31-9	X	X		Hydroquinone				
1063-40-6			X	Iron, Pentacarbonyl-				
75-28-5			X	Isobutane				

CAS NO.	CAA SEC. 112	SARA SEC. 313	ACC. RELE ASE	CHEM. NAME	SOURCE TEST	EMISN. FACTOR	MAT. BAL.	CEM
75-84-2		X		Isobutyraldehyde				
78-82-0			X	Isobutyronitrile				
78-78-4			X	Isopentane				
78-59-1	X			Isophorone				
78-79-5			X	Isoprene				
67-63-0		X		Isopropyl alcohol (manufacturing)				
108-23-6			X	Isopropyl Chloroformate				
75-29-6			X	Isopropyl Chloride				
75-31-0			X	Isopropylamine				
80-05-7			X	4,4-Isopropylidenediphenol				
120-58-1		X		Isosafrole				
78-97-7			X	Lactonitrile				
	X	X		Lead Compounds	✓	0.9 lb/ton & TBD		PL
58-89-9	X	X		Lindane (all isomers)				
108-31-6	X	X		Maleic Anhydride				
12427-38-2		X		Maneb				
	X	X		Manganese Compounds	✓			
108-78-1		X		Melamine				
	X	X		Mercury Compounds	✓	TBD		PL
126-98-7			X	Methacrylonitrile				
74-82-8			X	Methane	✓	1.5 lb/ton		
67-56-1	X	X		Methanol				
72-43-5	X	X		Methoxychlor				
109-86-4		X		2-Methoxyethanol				
74-87-3	X		X	Methyl Chloride				
556-64-9			X	Methyl Thiocyanate				
74-83-9	X		X	Methyl Bromide (Bromomethane)				
80-62-6	X	X		Methyl Methacrylate				
93-3	X	X		Methyl Ethyl Ketone (2-Butanone)				
108-10-1	X	X		Methyl Isobutyl Ketone				

CAS NO.	CAA SEC. 112	SARA SEC. 313	ACC. RELE ASE	CHEM. NAME	SOURCE TEST	EMISN. FACTOR	MAT. BAL.	CEM
624-83-9	X	X	X	Methyl Isocyanate				
96-33-3		X		Methyl Acrylate				
107-31-3			X	Methyl Formate				
1634-04-4	X	X		Methyl tert-Butyl Ether				
74-93-1			X	Methyl Mercaptan				
115-10-6			X	Methyl Ether				
79-22-1			X	Methyl Chloroformate				
60-34-4	X	X	X	Methyl Hydrazine				
74-88-4	X	X		Methyl Iodide (Iodomethane)				
563-46-2			X	2-Methyl-1-butene				
563-45-1			X	3-Methyl-1-butene				
74-89-5			X	Methylamine				
74-95-3		X		Methylene Bromide				
101-68-8	X	X		Methylene Bis (Phenylisocyanate) (AKA MBI) Methylene (diphenyl Diisocyanate) (AKA MDI)				
101-61-1		X		4,4,-Methylene Bis (N,N-Dimethyl) Benzenamine				
101-14-4	X	X		4,4-Methylene Bis (2-Chloroaniline) (AKA MBOCA)				
101-77-9	X	X		4,4-Methylenedianiline				
115-11-7			X	2-Methylpropene				
75-79-6			X	Methyltrichlorosilane				
90-94-8		X		Michler's Ketone				
1313-27-5		X		Molybdenum Trioxide				
76-15-3		X		Monochloropentafluoroethane (CFC-115)				
505-60-2		X		Mustard gas				
91-20-3	X	X		Naphthalene				
132-7		X		alpha-Naphthylamine				
91-59-8		X	X	beta-Naphthylamine				

CAS NO.	CAA SEC. 112	SARA SEC. 313	ACC. RELE ASE	CHEM. NAME	SOURCE TEST	EMISN. FACTOR	MAT. BAL.	CEM
	X			Nickel Compounds	✓			
13463-39-3			X	Nickel Carbonyl				
7697-37-2		X	X	Nitric Acid				
10102-43-9			X	Nitric Oxide	✓	3 lb/ton & TBD		yes & PL
139-13-9		X		Nitrioltriactic Acid				
99-59-2		X		5-Nitro-o-Anisidine				
98-95-3	X	X	X	Nitrobenzene				
92-93-3	X	X		4-Nitrobiphenyl				
1836-75-5		X		Nitrofen				
51-75-2		X		Nitrogen Mustard				
55-63-0		X		Nitroglycerin				
88-75-5		X		2-Nitrophenol				
100-02-7	X	X		4-Nitrophenol				
79-46-9	X	X		2-Nitropropane				
59-73-9		X		n-Nitroso-N-Ethylurea				
684-93-5	X	X		n-Nitroso-N-Methylurea				
924-16-3		X		n-Nitrosodi-N-Butylamine				
621-64-7		X		n-Nitrosodi-N-Propylamine				
55-18-5		X		n-Nitrosodiethylamine				
62-75-9	X	X		n-Nitrosodimethylamine				
86-30-6		X		n-Nitrosodiphenylamine				
156-10-5		X		p-Nitrosodiphenylamine				
4549-40-0		X		n-Nitrosomethylvinylamine				
59-89-2	X	X		n-Nitrosomorpholine				
16543-55-8		X		n-Nitrosornicotine				
100-75-4		X		n-Nitrosopiperidine				
2234-13-1		X		Octachloronaphthalene				
20816-12-0		X		Osmium Tetroxide				
56-38-2	X	X	X	Parathion				
87-86-5	X	X		Pentachlorophenol (PCP)				
504-60-9			X	1,3-Pentadiene				
109-66-0			X	Pentane				

CAS NO.	CAA SEC. 112	SARA SEC. 313	ACC. RELE ASE	CHEM. NAME	SOURCE TEST	EMISN. FACTOR	MAT. BAL.	CEM
627-04-8			X	2-Pentene, (E)				
627-20-3			X	2-Pentene, (Z)				
109-67-1			X	1-Pentene				
79-21-0		X	X	Peracetic Acid				
594-42-3			X	Perchloromethylmercaptan				
108-96-2	X	X	X	Phenol	✓			
106-50-3	X	X		p-Phenylenediamine				
90-43-7		X	X	2-Phenylphenol				
75-44-5	X	X	X	Phosgene				
7803-51-2	X		X	Phospine				
7664-38-2		X		Phosphoric acid				
10025-87-3			X	Phosphorus Oxychloride				
7719-12-2			X	Phosphorus Trichloride				
7664-38-2		X		Phosphorous (Yellow or White)				
85-49-9	X	X		Phthalic Anhydride				
88-89-1		X		Picric Acid				
110-89-4			X	Piperidine				
		X		Polybrominated Biphenyls (PBB)				
1336-36-3	X	X		Polychlorinated Biphenyls (Arochlors)	✓			
	X			Polycyclic Organic Matter				
463-49-0			X	Propadiene				
1120-71-4	X	X		1,3-Propane Sultone				
74-98-6			X	Propane	✓			
57-57-8	X	X	X	beta-Propiolactone				
123-38-6	X	X	X	Propionaldehyde				
107-12-0			X	Propionitrile				
114-26-1	X	X		Propoxur				
109-61-5			X	Propyl Chloroformate				
111-97-1		X	X	Propylene (Propene)				
75-56-9	X	X	X	Propylene Oxide				

CAS NO.	CAA SEC. 112	SARA SEC. 313	ACC. RELE ASE	CHEM. NAME	SOURCE TEST	EMISN. FACTOR	MAT. BAL.	CEM
75-55-8	X	X	X	1,2-Propylenimine (2-Methylene aziridine)				
74-99-7			X	Propyne				
110-86-1		X		Pyridine				
140-76-1			X	Pyridine, 2-Methyl-5-Vinyl-				
91-22-5	X	X		Quinoline				
106-51-4	X	X		Quinone				
82-68-8	X	X		Quintobenzene (Pentachloronitrobenzene)				
	X			Radionuclides				
81-07-2		X		Saccharin (manufacturing only)				
94-59-7		X		Safrole				
	X	X		Selenium Compounds				
7803-62-5			X	Silane				
				Silver Compounds				
1310-73-2		X		Sodium Hydroxide (Solution)				
7757-82-6		X		Sodium Sulfate (Solution)				
100-42-5	X	X		Styrene (monomer)				
96-09-3	x	X		Styrene Oxide				
7446-09-5			X	Sulfur Dioxide	✓	2.5 lb/ton & TBD		yes & PL
7664-93-9		X	X	Sulfuric Acid	✓			
7446-11-9			X	Sulfur Trioxide	✓			
7783-60-0			X	Sulfur Tetrafluoride				
100-21-0		X		Terephthalic (Acid)				
1746-01-6	X			2,3,7,8-Tetrachlorodibenzo-p-dioxin				
79-34-5	X	X		1,1,2,2-Tetrachloroethane				
127-18-4	X	X		Tetrachloroethylene (Perchloroethylene)				
961-11-5		X		Tetrachlorvinphos				
116-14-3			X	Tetrafluoroethylene				

CAS NO.	CAA SEC. 112	SARA SEC. 313	ACC. RELE ASE	CHEM. NAME	SOURCE TEST	EMISN. FACTOR	MAT. BAL.	CEM
74-1			X	Tetramethyllead				
75-76-3			X	Tetramethylsilane				
509-14-8			X	Tetranitromethane				
		X		Thallium Compounds				
62-55-5		X		Thioacetamide				
139-65-1		X		4,4-Thiodianiline				
108-98-5			X	Thiophenol				
62-56-6		X		Thiourea				
1314-20-1		X		Thorium Dioxide				
13463-67-7		X		Titanium Dioxide				
7550-45-0	X	X	X	Titanium Tetrachloride				
108-88-3	X	X		Toluene	✓			
95-80-7	X			2,4-Toluene Diamine				
26471-62-5		X	X	Toluene Diisocyanate (Unspecified Isomer)				
504-84-9	X	X	X	Toluene-2,4-Diisocyanate				
91-08-7		X	X	Toluene-2,6-Diisocyanate				
95-53-4	X	X		o-Toluidine				
636-21-5		X		o-Toluidine Hydrochloride				
8001-35-2	X	X		Toxaphene				
68-76-8		X		Triaziquone				
52-68-6		X		Trichlorofon				
120-82-1	X	X		1,2,4-Trichlorobenzene	✓			
71-55-6	X	X		1,1,1-Trichloroethane (Methyl Chloroform)				
79-00-5	X	X		1,1,2-Trichloroethane				
79-01-6	X	X		Trichloroethylene				
115-21-9			X	Trichloroethylene				
75-69-4		X		Trichlorofluoromethane (CFC-11)				
88-06-2	X	X		2,4,6-Trichlorophenol	✓			
95-4	X	X		2,4,5-Trichlorophenol	✓			
10025-78-2				Trichlorosilane				
121-44-8	X			Triethylamine				



CAS NO.	CAA SEC. 112	SARA SEC. 313	ACC. RELE ASE	CHEM. NAME	SOURCE TEST	EMISN. FACTOR	MAT. BAL.	CEM
19-38-9			X	Trifluorochloroethylene				
1582-09-8	X	X		Trifluralin				
95-63-6		X		1,2,4-Trimethyl Benzene				
75-50-3			X	Trimethylamine				
75-77-4			X	Trimethylchlorosilane				
540-84-1	X			2,2,4-Trimethylpentane				
126-72-7		X		Tris (2,3-Dibromopropyl) Phosphate				
51-79-6	X	X		Urethane (Ethyl Carbamate)				
7440-62-2		X		Vanadium (Fume or Dust)				
109-92-2			X	Vinyl Ethyl Ether				
75-02-5			X	Vinyl Fluoride				
689-97-4			X	Vinyl Acetylene				
108-05-4	X	X	X	Vinyl Acetate				
593-60-2	X	X		Vinyl Bromide				
107-25-5			X	Vinyl Methyl Ether				
75-01-4	X	X	X	Vinyl Chloride	✓			
75-35-4	X	X	X	Vinylidene Chloride (1,1-Dichloroethylene)				
75-38-7			X	Vinylidene Fluoride				
108-38-3	X	X		m-Xylene				
95-47-6	X	X		o-Xylene				
106-42-3	X	X		p-Xylene				
1330-20-7	X	X		Xylene	✓			
87-62-7		X		2,6-Xylidine				
		X		Zinc Compounds	✓			
12122-67-7		X		Zineb				

TOTALS IN COLUMN A: 189  
TOTALS IN COLUMN B: 329  
TOTALS IN COLUMN C: 164

TOTAL IN COLUMN A NOT IN B OR C: 22  
TOTAL IN COLUMN B NOT IN A OR C: 153  
TOTAL IN COLUMN C NOT IN A OR B: 108

TOTAL NUMBER OF CHEMICALS: 467

TBD = To Be Developed  
PL = Permit Limit

NOTE: OMSM has permit limits for NO<sub>x</sub>, SO<sub>2</sub>, CO, Total Particulates & Opacity, Pb, Be, TCDD, VOCs, F, Hg, & HCl  
Section 129 of CAA requires emission limits for NO<sub>x</sub>, SO<sub>2</sub>, CO, Total Particulates & Opacity, Pb, Cd, TCDD,  
dibenzofurans, Hg and HCl.

## OPERATING FLEXIBILITY

Comment 20: Section 502(b)(10) changes must be allowed. Under 40 CFR 70, a permitted source must be allowed to make changes which do not constitute a modification and do not cause emissions to exceed limits in the permit. Permittees should also be allowed to shift emissions from one point to another within the facility, subject to 7-day notice. In addition permittees must be allowed to obtain an emissions cap and engage in emissions trading in those situations where an emissions cap is established.

Keeping the permit requirements simple should be a goal of everyone - not just permitting authorities and industry. By crafting public participation provisions that incorporate public involvement when changes are proposed that are of genuine consequence to those in the surrounding area, state agencies will be serving the general public - as well as writing permit programs that facilitate industry operating flexibility and reducing the amount of time states spend on inconsequential matters. **The general public and environmental groups, like all others concerned with this process, have limited resources to devote to it, and will be well served by states prioritizing the potential significance of different types of plant changes.** In sum, for all parties, the bottom line is the same. If the permit program runs smoothly, everyone wins. If the lines back up and the permits don't get issued and revised as needed, everyone loses. The universal goal is to make it succeed.

Comment 21: Alternative control determinations for SIP equivalency should be allowed. This would allow sources to install different methods of control from those called for by the SIP, if they can demonstrate equivalent stringency of the alternative controls.

## PERMIT APPLICATIONS

Comment 22: At the discretion of the source, a single facility should be allowed to have single or multiple operating permits. EPA authorizes states to allow sources to obtain permits covering the entire facility or a number of individual permits. Furthermore, major sources that obtain more than one permit must still be allowed to average emissions over the entire source and secure other similar benefits.

AIR TOXICS

Comment 23: The list of air toxics (regulated air pollutants or those under consideration for reporting/inventory only) should be limited to the 189 in 112 of the Act. Expanding the list will not measurably enhance air quality and will simply place an

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For more complex permit applications, the full 12 months is essential from a compliance perspective. This is because the facilities must submit applications that are not only timely, but are complete as well. These types of facilities could have their permits reviewed during the following 2 12-month periods (by the end of which time the authority is to issue all of the permits).

Comment 18: If DEQ persists in wanting earlier applications then there should be incentives for those earlier submittals. The following suggestions are provided for obtaining early applications.

- Have state owned facilities be the sources to participate in the pilot program to be underway early in 1994.

- It is conceivable that during the development of a permit application a facility will find that it is out of compliance with an applicable requirement. As such it would be subject to enforcement action. As an incentive to a facility provide that if they volunteer (without prior knowledge of a violation) to submit early, then they would not be subject to enforcement action.

i. PROGRAMMATIC COMMENTS

NON-MAJOR SOURCES

Comment 19: The state rule should incorporate the same exemptions for non-major sources as the federal permit rules, unless compelling reasons are identified for changing them (e.g., special localized ambient air quality concerns). If Ecology considers eliminating some exemptions that are in the proposed rule, then those changes should be sent out for further public comment. This would allow affected parties to evaluate the changes.

The exemptions on the federal level were promulgated for valid reasons. Included in these reasons was a simple recognition that implementing the operating permits program for the major sources will be a complicated undertaking. The resources of Ecology will be challenged to process the permit applications of the major sources in a timely fashion. A timely response by Ecology would be virtually impossible if permit applications for non-major sources were included at the same time. Neither Ecology, nor the regulated community, nor the public would benefit from such a situation.

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authority should allow for the review of minor permit modifications in groups or batches where several such changes occur in a short time.

The restrictions placed in the program will, most likely, remain the same for a long period. There seems to be some reluctance to allow sources this flexibility simply because it is not clear at the onset how they will be used. Five years from now though, when the concept is not so new this type of flexibility may be essential.

Having requirements which are too restrictive does not appear to be compatible with all of the requirements of the Title IV program (which DEQ) is prohibited from modifying. Specifically there is the option for an affected unit to apply for a 'fast track modification' which has a 30 day notification period, not a 45 day approval period as in this section. If DEQ agrees that this is be the case, then steps should be taken to reconcile the differences. Also, all sources should be treated equally so if it is an option for utility units, other sources should have the analogous option.

- 28-2120 also deals with the timely application of submittals. Currently this calls for submittal of the applications within 12 months after the effective date of the federal operating permit program in Oregon or on or before such earlier date as the Department may establish.

Comment 17: This part should be revised to require that all permit applications be submitted within 12 months after EPA approves permit programs, except that the simplest to be prepared should be required within 8 months after that date. The discretion to call for the applications earlier should be eliminated.

40 CFR 70.5(a)(1)(i) provides that a timely application shall be one that is submitted within 12 months after a source becomes subject to the permit program or on or before such earlier date as the permitting authority may establish. Because the authorities must take action on at least one-third of the applications to be submitted by the end of that same 12-month period, it is recognized that some sources will have to submit their applications before the end of the 12-month period.

Sources that will face the least difficulties in preparing permit applications for submission at an earlier point prior to the end of the 12-month period. Requiring these types of permits to be submitted 8 months after EPA approval will allow sufficient time for reviewing one-third of the applications by the end of that first 12-month period.

reasonable deadline for response. There should be a process by which the source can submit an alternate schedule for submission of the additional information.

- 28-2120(3)(f) outlines monitoring, recordkeeping, and reporting requirements.

Comment 14: This outline appears to be heavily oriented towards CEM systems and/or significant repetitive testing requirements. Explicit mention should be made for using reasonable available methods, e.g., mass balances and calculations. There should be no question that these methods are acceptable.

Over reliance on CEM systems has serious implications relative to the cost of compliance and the complexity of the monitoring. This is especially true if CEM systems are required to generate the pounds per hour information. (As evidence of this, simply refer to the requirements in 40 CFR 75 for the CEM systems of the Acid Rain Program - for example, new flow monitors are necessary for generating mass flow rate information. The QA/QC requirements also become prohibitive.) Failing to allow the normal spectrum of emissions determinations could place an unnecessary burden on all sources, especially small businesses.

- 28-2120 refers in several places to providing emissions information on all regulated air pollutants.

Comment 15: The references should be moderated to allow more flexibility in providing the information. An example of why this is necessary would include instances where the federal guidance may call for monitoring a surrogate emission considered to representative of several regulated pollutants. The current wording would not seem to allow for this situation.

Another example would be the preliminary discussions of MACT for pulp and paper mills wastewater facilities. The preliminary discussion considers an option where no monitoring is required, only the installation of the steam strippers.

- 28-2250 describes minor permit modifications.

Comment 16: The constraints on a minor permit modification should be changed to more clearly match the federal guidance. As written, what is here called a minor permit modification does not meet the general intent of the federal guidance.

Minor permit modifications are essential for allowing operational flexibility for sources. Included in this would be de minimis changes where the sources are allowed to make extremely small, operational changes at their own risk and they satisfy other appropriate criteria. Also as a matter of efficiency, the

- 28-2120 describes the permit application process. Several comments are provided relative to completeness determinations.

Comment 11: The wording on the completeness determination should be changed. As written, the determination seems to be left too much to the discretion of the permit reviewer. It is significant to note that the majority of the discussion is related to what happens when an application is deemed incomplete rather than how an application will be determined to be complete.

The criteria and procedures for determining when a permit application is complete should be straightforward and clearly stated. The role of complete applications in the operating permits scheme is a critical one. Every source subject to the permit program must obtain a permit by the date required for submission of a permit application, unless its application is both timely and complete. To assure that sources can obtain the benefits of the application shield, the following conditions should be met.

- (1) The permit programs should make it clear that sources submitting applications that respond to each item required to be in the application form will be determined to have submitted a complete application.
- (2) Since permitting authorities have a continuing opportunity to seek additional information, they should determine applications to be complete or allow them to be deemed complete where sources have made a good faith attempt to provide the information specified.
- (3) The permit program should make it clear that a source's permit application shall be deemed complete sixty days following its submission, unless the permitting authority issues a written determination to the source indicating that it has determined the application to be incomplete.

Comment 12: Submission of a timely and complete application should qualify the source for an "application shield" (to be differentiated from a permit shield) pursuant to 40 CFR 70.7(b). In such an instance the source would be able to operate as if it did have a permit and would not be subject to penalties for not having one. This would eliminate problems for the sources if the authority does not issue the permit (or subsequent renewal) in a timely fashion.

Comment 13: The section also deals with requests for additional information and setting a reasonable deadline for response. If the additional information is not provided by the deadline specified, then the application is deemed to be incomplete. This does not allow any leeway if there is a disagreement on what is a

modified. The visibility evaluation should have to be consistent with National Research Council research findings. The evaluation should take into account the impact of the source upon visibility and then the impact of the additional controls on visibility.

Consideration should also be given to the other contributors to visibility impairment and where the source ranks relative to those other contributors. A stationary source should not be arbitrarily singled out if other contributors are more significant.

- 28-1910(3)(b)(I) requires the submittal of an application for a federal operating permit within one year of initial start-up of operation.

Comment 9: It is important to retain this provision in the final rule. This will allow sources to respond to the shakedown challenges inherent in any startup situation. The public is full protected under the review required by the other sections of the Act and Oregon rules.

- 28-2120 differentiates between major and non-major sources.

Comment 10: The rule should retain the differentiates between major and non-major sources. The differentiation being the emissions units covered are more expansive for major sources than for non-major sources.

EPA authorizes states to exempt non-major sources that would otherwise be subject to the Title V permit requirements, except in the case of sources subject to the acid rain requirements and solid waste incineration units required to obtain a permit under 129(e) of the Act. This means that non-major sources subject to requirements under 111 and 112 of the Act may be exempted.

EPA also makes a distinction between major and non-major sources with respect to the emissions units that must be covered by a permit under the new requirements. For major sources, states must include in a source's permit all applicable requirements for all relevant emissions units. For non-major sources, the permitting authority only must include all requirements applicable to emissions units that cause a source to be subject to the operating permit program.

Such a differentiation is justified because of the minor impact (if any) on air quality that these other emissions units have on air quality.



Comment 7: The definition for categorically insignificant activity (or a new definition) should include the concept of insignificant emission levels. This would include trace (insignificant) emissions of regulated pollutants from an emissions unit that is significant for a different pollutant.

An example of this could be a combustion process that emits a significant amount of NO<sub>x</sub> while emitting trace amounts of SO<sub>2</sub> because it burns a clean fuel. The SO<sub>2</sub> would be at an insignificant emission level and could be excluded from further consideration.

Including this concept would have an advantage because it would assist sources in focusing their resources on the issues which have the most meaning. By not including this concept, resources will be expended that could otherwise go to enhancing regulatory compliance and/or air quality.

- 28-110(84) defines "Significant Impairment". The following comment also applies to other sections of the rule (e.g., 28-2000).

Comment 8: The portions of the rule dealing with visibility considerations should be revised to take into account the findings of the Federal research on visibility. The most recent portion of this is National Research Council publication, Protection Visibility in National Parks and Wilderness Areas. Some excerpts from the publication include:

Incontrovertible scientific evidence links emissions of air pollutants to the formation of haze that limits visibility and degrades the visual environment. Almost all the effects of air pollution on visibility are caused by airborne particles. In most cases, visibility degradation is caused by five kinds of particulate substances (and associated particulate water): sulfates (SO<sub>4</sub><sup>2-</sup>), nitrates (NO<sub>3</sub><sup>-</sup>, organic matter, elemental carbon, and soil dust... A program that focuses solely on determining the contribution of individual emission sources to visibility impairment is doomed to failure...

Haze in the East and in the West differ in important ways... In the East, SO<sub>2</sub> emissions from coal-fired power plants account for about one-half of all anthropogenic light extinction... In the West, no single source category dominates; therefore, an effective control strategy would have to cover many source types...

As a result, the reference in the definition which bases the decision solely on the judgement of the Department should be

- Some abrasive and blast cleaning equipment with limits on particulate and visible fugitive emissions.

13. Mobile Sources

14. Agriculture and Related Operations

- Equipment used on farms for soil preparation, tending, or harvesting of crops, or for preparation of feed to be used on farm where prepared.
- Grain handling, storage, and drying facilities, subject to some conditions on the type of operation, capacity, location, registration, and/or type of conveying system.
- Facilities where animals or poultry are slaughtered and prepared for human consumption, provided that standards of cleanliness are maintained.

15. Domestic and Commercial

- Refrigeration systems, including associated storage tanks.
- Comfort air conditioning or ventilation systems not used to remove air contaminants generated by or released from specific units of equipment.

16. Miscellaneous

- Brazing, soldering, or welding equipment.
- Internal combustion engine driven compressors, electrical generator sets and water pumps used for emergency replacement or standby service.
- Blueprint copiers.
- Photographic processes.
- Painting operations using no more than 5,000 gal/yr
- Some printing presses.
- Architectural coating activities.

If the state decides not to exempt some of these insignificant activities, then the state should authorize such activities under the "general permit" authority.

## 8. Fabrication Operations

- Extrusion press used exclusively for metals, minerals, plastics, rubber, or wood except where halogenated organic compounds are used as foaming agents.
- Die casting machines.
- Equipment used exclusively to mill or grind coatings and molding compounds where all materials charged are in paste form.
- Equipment used for compression molding and injection molding of plastics.

## 9. Finishing Operations

- Powder coating operations with some restrictions on the types of materials emitted.

## 10. Storage and Distribution (except Petroleum Products)

- Storage tanks with capacity of 10,000 gallons.
- Storage tanks holding liquids, other than gasoline, for retail dispensing.
- Flanged and threaded pipe connections, vessel manways and process valves capable of discharging specified air contaminants to the atmosphere.

## 11. Water Treatment

- Stacks or vents to prevent escape of sewer gases through plumbing traps.
- Water cooling towers and water treatment systems for process cooling water or boiler feedwater and water tanks, reservoirs, or other water containers. This exemption holds if the listed systems are not used in direct contact with gaseous or liquid process streams containing carbon compounds, sulfur compounds, cyanide compounds, inorganic acids, or acid gases.

## 12. Cleaning Operations

- Ethylene oxide sterilizing chambers, subject to conditions regarding volume of ethylene oxide charged to the system, venting and vapor control and capture, and registration.

- Gasoline storage tanks with capacity of up to 10k gallons.
5. Furnaces, Boilers and Incinerators, etc.
- In attainment areas, fuel burning sources that are gas fired or #2 oil fired with heat input rate 20 million Btu/hr, with combined heat input rate of 20 million Btu/hr at each location.
  - Furnaces and boilers that use fuels other than natural gas or # 2 oil and have less than 2 million Btu/hr.
  - Space heaters and portable heating devices having a capacity of 100k Btu/hr or less.
  - Kilns used for firing ceramic ware, if (1) heated exclusively by natural gas, electricity, and/or liquid petroleum gas, and (2) BTU input is 10 million Btu/hr or less.
6. Materials Handling
- Bulk mineral product handling facilities (except asbestos) and portable rock crushers with a production rate of 200 tons per hour or less.
7. Manufacturing Other Than Fabrication and Finishing
- Sand and gravel production facilities that obtain material from the result of natural disintegration of rock and stone, provided that there are no blasting, crushing or breaking operations, fugitive dust is controlled, locations standards are met, and the production rate is 50 tons/hr or less.
  - Equipment exclusively used to pack pharmaceuticals and cosmetics or to coat pharmaceutical tablets.
  - Processes used for curing of rubber and plastic products.
  - Ethyl alcohol production facilities provided that capacity is 200 gal/day and with some other restrictions.
  - Equipment used exclusively for mixing and blending materials at ambient temperatures to make water based adhesives.
  - Air separation or other industrial gas (oxygen, nitrogen, helium, neon, argon, krypton, and xenon) production, storage, or packaging.

flexibility. Under 40 CFR 70.5(c) of the permit regulations, EPA authorizes states to exempt a "list of insignificant activities and emissions levels." These exempted activities are not required to be listed in permit applications, except where the exemption is based upon size or production rate.

Comment 6: The definition of categorically insignificant activities. The definition can include more activities without having any adverse impact on air quality.

Among the types of activities that should be included in the list are the following. Consistent with past experience, research and development activities and pilot plants, at least ones of certain size, should be categorically insignificant. Also, certain activities that have emissions below specified cut-offs should be exempt.

For example, pilot plant operations and research and development and research and development laboratories are critical to many industries in developing new or modified products and technologies, such as drugs for treating disease, emissions controls, and high technology products. Requiring a long lead time for companies to initiate these activities would have a major adverse impact on the economic viability of industry in the state. Companies must be able to identify improvements in products and processes quickly to stay competitive. Testing and development work must be given a priority in order for American industry not to be disadvantaged relative to almost all foreign competition.

Categories of insignificant activities or applications with insignificant activities are listed below. A few illustrative examples are provided where they are thought to be helpful.

1. Laboratory analytical and direct ancillary equipment.
2. Pilot processes and related equipment that are intended for use as process or product development units.
3. Maintenance
  - Emissions during periods of maintenance.
4. Energy Production and Utilization
  - Internal combustion engines that power portable drilling rigs.
  - Stationary internal combustion engines of a certain size.
  - Smokeless gas flares.

David J. Harvey  
Public Comments  
OAR 340-28 & -32

Recommend increasing the amount of aggregate insignificant emissions to the following: (a) a combined total of NO<sub>x</sub> and SO<sub>2</sub> of ten tons per year, (b) three tons per year of PM<sub>10</sub>, unless in a nonattainment area, and (c) 150 pounds per year of lead.

- 28-110(9) defines applicable requirement.

Comment 3: The definition of applicable requirement should be changed. The definition currently has some wording that is different than in the federal definition in 40 CFR 70.2.

The term applicable requirement should be defined as provided in EPA's regulations, and DEQ should make it clear that sources are to identify terms in their permit applications. This rule should provide for sources to identify first all provisions that constitute applicable requirements, and then, under a separate heading, all other provisions the state wishes to have included in the permit.

Making the distinction between applicable requirements and all others is important for a number of reasons. For example, sources are authorized under EPA's regulations to make plant changes that meet the criteria of 502(b)(10) of the Act, as long as the changes do not contravene applicable requirements and meet certain other conditions. Also, DEQ must specify in permits that permit terms that are not applicable requirements are not to be federally enforceable. Finally, the timeliness of processing permit changes related to state only requirements will be adversely impacted because of the additional requirements for EPA review, affected state review, etc.

Recommend changing the definition to match that in 40 CFR 70.2.

Comment 4: The definition as worded, and as in 40 CFR 70.2, does not explicitly address mobile source considerations as they might indirectly relate to an affected unit. Such indirect considerations might include a clean fleet program or a vehicle mile reduction (employer trip reduction) program.

Recommend providing for a specific exclusion of these indirect mobile source considerations. These programs are important but do not belong in a Title V operating permit.

- 28-110(16) defines categorically insignificant activities.

Comment 5: The state rule should allow for the exemption of insignificant activities, as expressly authorized by EPA. States with permit programs have historically exempted a variety of activities from their permitting requirements where they will have insignificant impacts on air quality and where the exemptions will contribute to accommodating operational

COMMENTS ON AMENDMENTS

PS

TO OAR 340, Divisions 28 and 32I. SPECIFIC COMMENTS

- 28-110(6) defines "Aggregate insignificant emissions".

Comment 1: The definition of aggregate insignificant emissions should be changed. The current definition could cause a significant expenditure of effort by sources without a resulting benefit to air quality.

The concept of aggregate insignificant emissions, as currently defined, could require any source which takes credit for any insignificant emission unit to prove that the aggregate is less than the defined amount. In some instances this would require additional testing (initial or periodic).

Recommend changing the definition. The definition could include a reference to a threshold number of insignificant emission units, above which the source would have to account for the emissions cap. This threshold number could be: (a) relative to the number of identified emissions points, (b) relative to the number of tons emitted [say 0.20 emissions points per ton per year x 100 tons per year = 20 allowable insignificant emissions units], or (c) a specific cap of 150 or 200 [realize that this may be a relatively small number for large complex facilities].

Additional concepts would be (i) to correlate it to the type of process involved and/or (ii) to correlate it to gas flow rates [the concept here is that it is relatively straightforward to measure flow rates but it may be extremely difficult to measure concentrations of pollutants].

The balance that should be struck is between a source expending a noticeable amount of effort quantifying these emissions (after all, they are insignificant) and a source being able to have a relatively large amount of aggregate emissions.

Comment 2: If the aggregate insignificant emissions limits are retained, then the amounts should be changed. Again, there does not appear to be an identifiable correlation between the proposed limits and their impact on air quality.

For example, one ton of a criteria pollutant may seem like a large amount but keep in mind that it is one ton emitted in a whole year. To keep this in perspective, that would be approximately 3 pounds per day. It is difficult to identify where this amount of emissions would have a noticeable impact on air quality. For example, if there were 3 and 1/2 pounds per day of NO<sub>x</sub> emitted (instead of 3) there would be not be a noticeable impact on air quality.

9400 S.W. Barnes Road  
Portland, Oregon 97225  
503-297-1631  
FAX 503-297-5429

P5  
FOP 8

July 9, 1993

Department of Environmental Quality  
811 S. W. 6th Avenue  
Portland, OR 97204

Attention: Mr. Terry Obteshka

REFERENCE: Public Comment on OAR 340,  
Divisions 28 and 32

Dear Mr. Obteshka:

Please find enclosed public comments on OAR  
340, Divisions 28 and 32.

The comments have also been transmitted via  
fax.

Please feel free to contact me if there are  
any questions regarding my comments.

Very truly yours,

*David J. Harvey*

David J. Harvey

enclosure



additional burden on sources. The methodology for measuring most of these toxics is so uncertain anyway that the resulting inventory efforts would become virtual research projects. With all of the other new requirements facing sources unnecessary expansions of the list should be eliminated.

Comment 24: Under 112(n) of the Act electric utility steam generating units are exempt from the air toxics rules until the EPA Administrator finds otherwise.

#### MODIFICATIONS

Comment 25: As a minimum the following should be excluded from review as modifications:

- increases in hours of operation,
- increases in capacity utilization, and
- changes in raw materials that do not involve a capital expenditure.

Also, consideration should be given to incorporating the core elements of the WEPCO rule (Wisconsin Electric Power Co. v. Reilly, 7th Circuit, 1990) into the exclusions section. This would exclude from review, among other things, pollution control projects where the project will be "environmentally beneficial". EPA defined the term as projects that do not cause or contribute to the failure of an area to meet national ambient air quality standards.

#### INDIAN LANDS

Comment 26: Administration of Title V operating permits on Indian Reservations is to be performed by US EPA (specifically Region IX in San Francisco).

Intel Corporation  
5200 N.E. Elam Young Parkway  
Hillsboro, OR 97124-6497

(503) 696-8080

~~P22~~  
FOP 9



July 8, 1993

Mr. Terry Obteshka  
Department of Environmental Quality  
811 S.W. 6th Avenue  
Portland, OR 97204

Re: Comments on Rulemaking Proposal - Federal Operating Permit Program

Dear Mr. Obteshka:

On behalf of the American Electronics Association and Intel Corporation I am submitting the attached comments on the Federal Operating Permit Program proposed rule package dated May 17, 1993. We appreciate the opportunity to comment on these proposed rules.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bonnie J. Gariepy".

Bonnie J. Gariepy  
Intel Sr. Environmental Engineer

cc: Jim Craven, AEA

RECEIVED  
JUL 12 1993

ENVIRONMENTAL DIVISION  
Dept. Environmental Quality

<u>PAGE</u>	<u>SECTION</u>	<u>COMMENTS</u>
A-23	340-28-600	Opposed to the Highest and Best Practicable Treatment and Control Requirements as stated. The requirement is vague and therefore not consistently applied and difficult for DEQ and the source to demonstrate compliance. I support DEQ's current efforts to better define this requirement.
A-24	340-28-800	<p>The existing Notice to Construct (N.C.) requirements in (1)(e) and (2)(b) are very general and therefore difficult to determine when the N.C. requirement applies. The N.C. subcommittee to the Air Quality Industrial Source Control Advisory Committee (Committee) developed the following criteria. Recommend DEQ incorporate this criteria in to the N.C. rule section. An N.C. is required for the following - 1. Any new emissions unit or increase in emissions of a total emission unit. 2. Changes in DEQ required control equipment (excluding regular maintenance) that affects the equipment performance. 3. Change in required monitoring equipment.</p> <p>Subcommittee also recommended that Title V sources utilize the same N.C. requirements as ACDPs.</p>
A-33	340-28-1140	(2) The requirement to submit reports on a semi-annual and more frequent basis if required by DEQ is onerous. DEQ should have strong justification for a more frequent submittal requirement.
A-33	340-28-1140	(3) The requirement to submit report within 30 days after the end of each reporting period is extremely difficult, if not impossible, for Intel to do. The sampling, analysis and data calculations required to complete the reports takes a minimum of 6 weeks to complete. The timeframe should be changed to a minimum of 45 days after the end of each reporting period, with the option to be extended

<u>PAGE</u>	<u>SECTION</u>	<u>COMMENTS</u>
		if the source provides satisfactory justification for a longer timeframe.
A-84	340-28-2120	(3) Requirement to submit applications on both written forms and electronically is overly burdensome. Intel's experience with EPA's electronic SARA Title III 313 reports is they don't always work and are cumbersome to use. Suggest the electronic submittal be encouraged, but not required.
A-85	340-28-2120	(3)(c)(C) Requirement for hourly short term PSEL is inconsistent with PSEL requirement on page A-28 section 340-28-1020 which solely states that "a short term period emissions basis that is compatible with source operation and air quality standards". The hourly requirement is overly restrictive and should be deleted.
A-85	340-28-2120	(3)(c)(D) Requirements for insignificant activities in counter to whole concept of insignificant activities. Insignificant activities are activities that are excluded from the Title V requirements and therefore have no applicable requirements. The requirement to list all applicable requirements and methodology to ensure compliance should be deleted.
A-89	340-28-2120	(4)(b) Requirement is redundant and confusing with (4)(a) and should be deleted.
A-101	340-28-2220	(2)(c) Requirement for permittee to maintain records of off-permit changes made that result in insignificant changes is again contrary to the concept of insignificant changes. Quantifying and reporting of insignificant changes should not be a requirement. Delete this section.
A-106	340-28-2260	(1)(e) Defining increases of HAP emissions greater than the de minimis levels in the proposed rules as significant permit modifications will require very minor changes in a

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SECTION

COMMENTS

source's operation to obtain an N.C. and a major permit modification (completing all the same complex requirements when obtaining a new permit). This will be a very onerous requirement for both DEQ and the source. Strongly suggest reviewing the definition of HAP modifications and making it more realistic.

B-9 340-32-240

(2)(b) and (c) These requirements are above and beyond the minimum federal requirements and are therefore in conflict with statutory requirements. As proposed they are also unnecessarily burdensome on industry. I believe DEQ can gather the needed data in a much less burdensome manner. I understand and agree with DEQ's need to gather appropriate data to determine if additional requirements are necessary. I don't believe that the HAP data gathering should be limited to Title V sources, be part of a Title V permit (and therefore an applicable requirement) and funded by the Title V program. Recommend that the following requirement be placed elsewhere in the air rules where it will apply to all regulated sources and not be a part of the Title V permitting program. The initial HAP data gathering should be limited to sources submitting data on the usage of Title III Section 313 chemical list and the Accidental Release chemical list in Table 4. The usage should be reported in ranges of usage as designated by DEQ (such as 0-1,000 lbs, 1,001-2,000 lbs, etc.). If based on the initial data collection there is sufficient concern with specific HAPs, more detailed emission data should then be collected on those specific HAPs and sources. This will ease the burden on industry and provide the needed data to DEQ.

B-22

340-32-500

(4) Requirements are above and beyond the minimum federal requirements and therefore should be deleted. The data gathering discussed directly above

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will identify if there is a negative impact to the environment from residual HAP emissions and provides DEQ with the ability to develop specific rule making to correct the problem.

B-23

340-32-5000

(3)(a)(B) State MACT timeframe should be consistent with Federal requirement.

Testimony given at DEQ hearing Medford June 29th 1993

Good Afternoon 6/25/93

My Name is Wally Skyrman and I am the Patient Representative with the Southern Oregon Regional Board of the American Lung Association of Oregon. On behalf of The Coalition To Improve Air Quality, I wish to welcome the DEQ to the Rogue Valley. Presently the Coalition includes members from the American Lung Association of Oregon, Better Breathers, Friends of the Greensprings, Headwaters, P.A.C.T., Jackson County Citizens League, Rogue Group Sierra Club, Rogue Valley Audubon, Murphy Citizens Advisory Committee and other interested citizens.

Since we last meet in hearings our air quality by many measurements has improved and we would like to think that working together attacking all forms of air pollution we are making a difference. While accolades are welcomed the job is not done and we must all be vigilant for the future and the growth it will bring. Besides having good ventilation during the last winter and improved controls on many sources, an economic slow down also contributed to one of Medford best winter records.

The topic today is the designing and implementing regulations that will allow us to continue to improve our air even when we have periods of air stagnation and a bustling economy. That's a tall order and some of the proposed rules will kill us because they can lead to backsliding. As a cosigner on the state wide position paper developed by Osprig, Citizens for Environmental Quality and Sierra Club we urge you to consider and adopt the concepts and ideas developed in it.

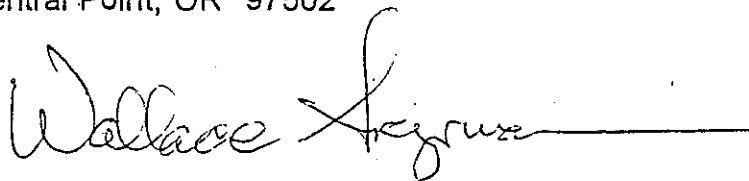
With this as background how can we even consider the option of easing current regulations to match generic guidelines as proposed in the Clean Air Act of 1990. Locally we have in place some of the best wood fired boiler rules in the nation and they are working helping us meet federal health standards. We need stringent regulations, not just those deemed sufficient for average conditions. If growth is to be allowed in marginal or in areas of non-compliance we need stronger regulations not weaker. HB2175 under extensive lobbying by Association of Oregon Industries mandated the DEQ to use scientific studies to justify demanding regulations. DEQ acquiesced to these demands, the scientific studies which were asked for by Industry should be started and they should be financed by Industry, the large point sources of pollution in our area. These studies should be objective with peer review and constitute good science.

Hazardous Air Pollutants are a new phase for us to be concerned with in the Rogue Valley. For the DEQ to consider taking the Clean Air Act minimal approach while the current DEQ lists are more extensive seems a big leap backwards. Retain the current list of 700+ of HAPs and add the 189 that are on the Federal List. DEQ has the authority to exceed the Federal guide lines in this and many other specific HAP areas of concern and should do so to safe guard the limited air that we have during periods of stagnation.

Public Notice is a subject that brings up the timely dissemination of information to those who are interested in changes proposed. I understand Industries concern for lost time in getting a proposal ok'd but my experience is that the DEQ has a hard time sending out requested info in a timely manner. Currently I have a request on file for your newsletter "Air Time" which I hear does a pretty good job of explaining the issues. I was assured it was in the mail but like a lot of things I am supposed to be getting from DEQ the request goes unfulfilled. Can we expect any different response with a 14 day time frame? No, I am lead to believe that we need a 30 day time period to receive info, review the material and ask questions before requesting a hearing. If interested parties feel that events are rushing by with little chance to review, panic could set in and a hearing request would be made just to make sure review is made. We are concerned that the position being taken by DEQ is a minimal approach while a proactive approach is needed in our area that is sensitive to adverse weather conditions. There are many more areas of concern that I have but I believe you know the items that the Coalition is concerned with. In finishing off I would like to leave this thought with you.

When leaving the DEQ offices I hope you stop and reflect on motto above the entrance that states the following: **" 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. "** Oh you say you have never seen that motto, well you need to have it displayed for it is the law, written as ORS 468.010 section a. This simple statement of purpose should be your guide in service to the public at large, the young, the ill, the elderly and not just special interest groups that are making money by polluting the air.

Wallace Skyrman  
4588 Pacific Hwy North  
Central Point, OR 97502

A handwritten signature in cursive script that reads "Wallace Skyrman". The signature is written in black ink and includes a long horizontal line extending to the right from the end of the name.



June 29, 1993

#5  
FOP 11

Testimony to the Oregon Department of Environmental Quality  
Medford, Oregon

Subject: Draft Rules for industry to meet requirements of the Clean  
Air Act of 1990

My name is Myra Erwin. I live at 300 Grandview Dr. Ashland.  
First I thank you for having this hearing in Medford, but next time  
I recommend you have the meeting in the evening so that working  
people can attend.

I strongly support the positions taken by the Coalition to Improve  
Air Quality in their June 1993 newsletter.

Most important, there should be no weakening of DEQ's existing author-  
ity. Rather, there are a number of areas where rules and regulations  
should be strengthened. Among these are the following:

1. A minimum of 30 days should be available to request a public  
hearing. It is next to impossible to obtain, review and comment  
on a proposal in 14 days.
2. Anyone who participates in the public process should be eligible  
to be considered "adversely affected" or "aggrieved" even if not  
residing in the vicinity of an emissions source.
3. Fees charged should cover all the costs of the Oregon permit  
program including data collection and DEQ studies required  
by State law (HB 2175).
4. The administrative process should be open to public participation  
at every level. No secrets.
5. Hazardous air pollutants reporting: I support the DEQ proposal  
to add 200 chemicals to the disclosure list. I am concerned,  
however, that reporting emissions of under 1000# per year of  
these hazardous chemicals, many of which may be carcinogens,  
would not be required. Especially in Southern Oregon, with  
our prolonged air stagnations, a lower threshold should be  
established, and no emitters of hazardous air pollutant should  
be exempted.

I urge you to adopt the recommendations of the coalition to  
Improve Air Quality in their entirety. They are all highly profession-  
al, wellthought out and clearly in the public interest. They deserve  
your support.

Myra Erwin

My name is Herschel King. I am a retired physician. I have lived in Ashland for about five years and have been interested in the air quality problem since before arriving. I am glad the air quality has improved so much in the past two years.

I am a member of The Coalition To Improve Air Quality and support their position. I am speaking for myself. For the improvement in air quality we can thank the efforts of the DEQ and the compliance of local industry and citizens with some of the most stringent AQ rules in the country. Also the weather patterns can be thanked, the past two winters being free of severe air stagnation and inversions, the potential for which the Rogue Valley shares with only one other area of the country. The improved AQ however does not mean that there is room for more pollution. Minimal standards for AQ are exactly that and are not standards for healthy air. AQ advisory Red Days are called only when the air has already deteriorated to a dangerous level.

I have read the "New Air Quality Rules" and attended the Video Conference where they were explained. As I have noted Oregon's AQ rules are tough, but they have improved AQ. There can be no retreat from the gains that have been achieved. Reducing the stringency of Oregon standards to the level of the Federal standards would be a retreat. Oregon rules must call for the "Highest and Best" control devices at all facilities. All Oregon current programs should be maintained at no less than the now existing levels under the DEQ's authority to maintain AQ at the "Highest Possible Level." The requirement of the 1991 HB 2175 that the DEQ have "scientifically defensible reasons" to justify greater stringency is a fact, as are the good results of the existing program. HB 2175 also states "nothing shall require DEQ or EQC to make less stringent any existing element of - air pollution control programs." DEQ studies data collection and analysis should be funded through Emission Permit Fees that are high enough to pay all the costs of the program. An

*C. Howard May 9/77 110*

underfunded DEQ can not complete the good work that has begun.

The current interim policy (DEQ) on reporting of the 700 plus Hazardous Air Pollutants -HAPs- must be continued. Also any chemical compound structurally related to a known HAP should be considered a HAP until proven to be otherwise by the emitting facility, and regulated accordingly. Furthermore, a ton of any particular HAP is not necessarily equal to a ton of another. Toxicity varies. The more toxic HAPs must be more tightly controlled. The DEQ has done well in addressing this issue of degrees of toxicity. It is a concept very essential to maintaining the AQ gains already seen.

The full permit process with public participation should apply to all sources including so called Non Major Sources. The cumulative effect of several sources must be kept in mind. The proposed blanket 1000 pound threshold for regulation and control should be determined by toxicity or suspected toxicity. I believe the goal is Zero toxic emissions, and any chemical compound listed as a HAP by any federal or state agency should be controlled until a study proves it not to be a HAP. All HAP and suspected HAP sources should be handled through existing programs and not dropped from regulation just because the Federal Agency has not acted or has set higher thresholds than Oregon's. The idea of "rolling over" Construction Permits into Operating Permits is wrong and contrary to full public participation. No General Permits should be allowed, certainly not for HAP sources, since they lead to unwarranted exemptions as well as bypass sufficient public participation.

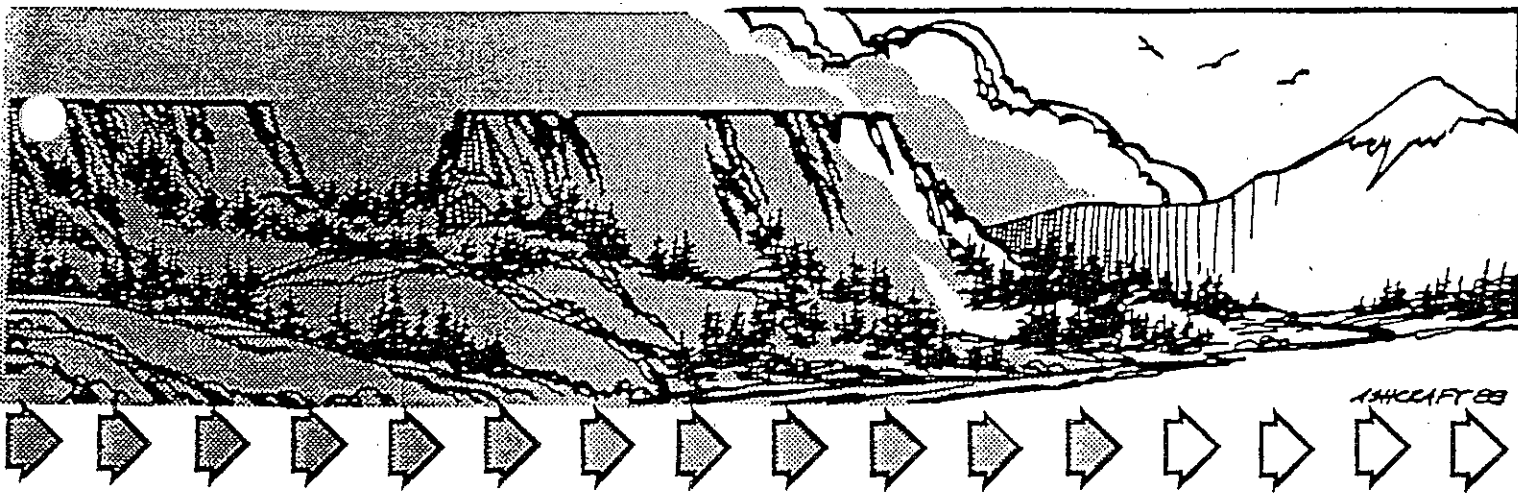
Current Public Notice Rules provide only 14 days for submission of a written request for a hearing. This is not enough time for the public to be informed and have adequate opportunity to be heard. A minimum of 30 days is needed to get a notice, request permit copies, review and decide to ask for a public hearing. I am convinced the apparent

C. Herschel King 2/29/93

success in reduction of the PM10 and carbon monoxide problem in the Rogue Valley is partly due to public participation. Accordingly, citizens who do participate in the public process should be considered "adversely affected" or "aggrieved" along with those living in close proximity to pollution sources. Where appropriate all citizens must have the right to bring action under the AQ program.

In summary, I believe the State Implementation Plan for the 1990 Clean Air Act should be to continue Oregon's existing programs and policies that are successful and aim for the best AQ possible. The people of Oregon deserve the best.

C. Herschel King, M.D.  
791 Faith Ave.  
Ashland, OR 97520



June 29, 1993

Hearings Officer  
 DEQ Air Quality Division  
 Medford City Council Chambers  
 Medford Oregon

My name is Phyllis Hughes. I am a member of the Rogue Group Sierra Club and the Rogue Valley Coalition to Improve Air Quality, and a concerned citizen.

These comments are presented on behalf of Robert J. Palzer, Scientific Director, Coalition to Improve Air Quality, who could not be present at this hearing. The Coalition's comments on DEQ draft rules implementing the Clean Air Act of 1990 are attached, and the major points only are summarized here today.

- . There should be no backsliding on current DEQ enforcement; the "highest and best" standard should be retained.
- . A minimum of 30 days after public notice should be provided in which to request a hearing. Fourteen days is just not enough time.
- . Emission fees collected from industrial sources must be high enough to cover all costs of operating the federal permit program as required by the Clean Air Act and to cover the additional DEQ studies and data collection required to meet the "scientifically defensible needs" test imposed by Oregon's HB 2175 requirement.
- . General permits should not be allowed or should at least be confined to small non-hazardous air pollution sources.
- . The construction permit process and the operating permit process should be separate and not combined; this would give more adequate opportunity for public comment.

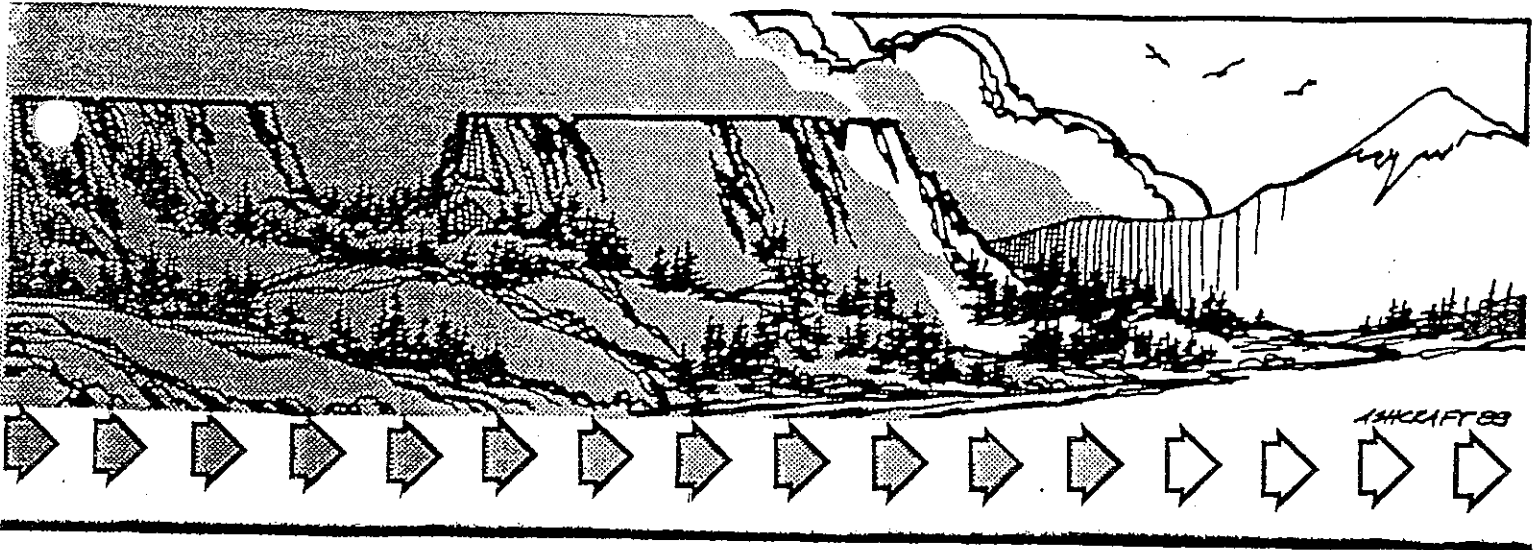
- . The public should participate in a determination of whether "corrections" result in actual emission increases and whether misinterpretations are really "minor" before an administrative amendment process is applicable. No group processing of minor permit modifications should be allowed.
- . DEQ should implement requirements beyond the minimum Hazardous Air Pollutant federal program where needed to aggressively reduce HAP emissions and cover gaps in HAP controls.
- . The DEQ proposed HAP list of 200 chemicals requiring emissions disclosure, together with the current list, should be retained for a 700+ total. Any compound with a structure chemically related to a HAP should be classified as a HAP until proven otherwise. The "threshold" concept is progressive and extremely important, but the 1000 pound criteria may not be adequate under all circumstances.
- . Existing air toxics policy must be continued while pre-construction permits for HAP sources are processed. This will ensure regulation of some HAP sources even though the federal agency has not acted.
- . Additional emission reduction measures should be applied to new HAP sources, especially where cumulative impacts with existing sources are possible.
- . Area HAP sources should not be exempted from Oregon's existing operating permit program.
- . Citizen petitions identifying area source categories should be permitted and if substantiated should require development of standards by DEQ.

Thank you for this opportunity to be heard.

ROBERT J. PALZER  
Scientific Director  
Coalition to Improve Air Quality  
c/o 4588 Pacific Hwy North  
Central Point, OR 97502-1695

Presented by: *Phyllis Hughes*  
Phyllis Hughes  
3721 Forest Creek Road  
Jacksonville, OR 97530

# COALITION TO IMPROVE AIR QUALITY



June 29, 1993

## COMMENTS ON DEQ DRAFT RULES IMPLEMENTING THE CLEAN AIR ACT OF 1990

### ***NO BACKSLIDING***

Five years ago

Oregon DEQ adopted some of the toughest air quality rules in the country. for industry, woodstoves, and open burning. This broad approach -- together with recent favorable weather patterns and reduced industrial emissions due to an economic recession -- has resulted in vastly improved air quality. But an EPA study by Holzworth shows Medford to be among the two areas that have the greatest potential for winter air stagnation conditions in the country. And one thing is certain: future growth is inevitable and with growth comes more pollution.

DEQ must not backslide on existing rules, programs or policies. Some of the proposed rules would weaken existing DEQ authority to regulate air pollution. DEQ should have the ability to quickly and efficiently monitor and enforce its rules. Emission limits must be monitored continuously and loopholes must be plugged that allow companies to exceed permitted emissions levels or otherwise violate permits or rules.

In particular, the rule mandating "Highest and Best" pollution controls at any facility should be retained as is, or if it is revised, such changes must allow DEQ to retain all the authority it currently has to "maintain overall air quality at the highest possible levels." The

bottom line is that any changes to the highest and best should be limited to efforts to better define the means to attain the current objectives which currently are extremely broad and must remain so in any possible revision.

*There should be no backsliding on current enforcement; "Highest and Best" standard should be retained.*

#### ***PUBLIC NOTICE***

After DEQ publishes a notice of permit application, current rules provide 14 days in which to submit a written request for hearing.

State rules should extend this period to a more reasonable 30 days. The public should be informed to have adequate opportunity to be heard on all significant air pollution emission proposals, particularly on applications for permits. Fourteen days is not enough time to get the public notice, request a copy of the permit, review it, and decide whether to request a public hearing. A minimum of 30 days to request a hearing after public notice should be provided. This will give the public more time to become informed before having to lock in on a hearing request. DEQ and industry will have more time to resolve potential disputes by a pre hearing modification of a proposed permit.

We support DEQ's proposal to consider those who participate in the public participation process to be "adversely affected" or "aggrieved" in addition to those residing close to the facility.

*A minimum of 30 days after public notice should be provided in which to request a hearing.*

#### ***SUFFICIENCY VERSUS STRINGENCY***

In 1991 Oregon passed a law (HB 2175) that restricts DEQ to "take only those actions required to obtain (EPA) approval...to implement the federal operating permit program ...unless the commission (Environmental Quality Commission (EQC)) finds there is a scientifically defensible need for additional actions necessary to protect the public health or environment." Fortunately, HB 2175 also states that "nothing...shall require (DEQ or EQC) to make less stringent any existing element of the state's air pollution control program." In short current programs can continue even if they are stronger than federal requirements with no further justification necessary. Oregon must not weaken its existing programs and provide less adequate substitutes. However, the more serious problem is with new rules and regulations, where all such programs must meet the "scientifically defensible" test.

In other words, where existing programs must be upgraded they must be at least as stringent, even if the new CAA doesn't require such stringency.

The real problem, however, is with new regulations for new pollutants, where industry is seeking only minimal requirements, but Oregon meteorology requires more stringency.

Rather than imposing federal minimum standards because it cannot fund necessary special research, studies, and data collection -- DEQ should require industry to pay emission fees that would fully cover the data collection and analysis required to meet the "scientifically defensible" tests now required in Oregon. In short, fees must be sufficient to cover all aspects of funding a fully effective program to meet Oregon's unique requirements.

*Emission fees collected from industrial sources must be high enough to cover all costs of operating the federal permit program as required by the CAA and to cover the additional DEQ studies and data collection required to meet the "scientifically defensible needs" test imposed by Oregon's HB 2175 requirement.*



DEQ should also consider impact upon schools, hospitals, sensitive wilderness areas, etc.

*We strongly support adding the 200 HAP chemicals and retaining the current list for a 700+ total. Any compound with a structure chemically related to a HAP should be classified as a HAP until proven otherwise. The threshold concept is progressive and extremely important, but the 1000 pound criteria may not be adequate in all circumstances.*

---

#### **HAP MAJOR SOURCE CONSTRUCTION PERMITS**

DEQ seeks comments on a proposal to require preconstruction permits for HAP sources and to continue implementation of the existing air toxics policy in the interim.

*We strongly urge continuing the existing air toxics policy while preconstruction permits for HAP sources are processed. This will ensure regulation of some HAP sources even though the federal agency has not acted.*

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#### **EMISSION LIMITS FOR NEW MAJOR HAP SOURCES**

We strongly support the proposal to apply additional HAP emission reduction measures on new sources which exceed "de minimis" levels. DEQ will weigh the burden on industry with the incremental health and environmental benefits. It is especially important to control additional HAP's in a location where other HAP'S are already being emitted. The true costs of pollution should be reflected in cost of the end products if we are ever to stop unnecessarily degrading the environment for economic gain.

*Additional emission reduction measures should be applied to new HAP sources, especially where cumulative impacts with existing sources.*

---

#### **HAP AREA SOURCES**

Sources emitting less than 10 tons of a single HAP or 25 tons of combined HAP's per year ("area sources") will not be covered by federal air pollution standards until at least 1999. DEQ asks whether these sources should be exempted or included under Oregon's existing operating permit program. If exempted, a plant could emit 24 tons of HAP's without being subject to a permit.

*Area HAP sources should not be exempted from Oregon's existing operating permit program.*

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#### **IDENTIFICATION OF HAP AREA SOURCE CATEGORIES**

DEQ seeks suggestions on identification and standards for "area source categories" not covered by EPA. We recommend that citizens be allowed to petition DEQ with a list of such categories. DEQ should then be required to review the petition and develop standards if a showing is made that controls are needed.

*Citizen petitions identifying area source categories should be permitted and if substantiated should require development of standards by DEQ.*

---

Among major omissions in this proposed program is specific mention of hazardous air pollutants that are known to be out there, but that have not yet been classified. The most prominent series are military nerve gases that are likely to be destroyed by incineration at a site in Eastern Oregon. A fifty year old supply of these extremely hazardous chemicals are likely to be transported from throughout the west to be burned at a site in Northeast Oregon. One could make the case that the Highest and Best Rule gives DEQ authority to regulate these nerve gases--but these are unchartered waters.

### **GENERAL PERMITS**

A "general permit" covers a category or class of many similar air pollution sources; once a general permit is issued it covers all sources in that class; thus there is no public hearing for a new source in that class in a particular place. (As an example, if incinerators are allowed under a general permit, no public input would be possible on an incinerator in a new location.) General permits should not be allowed; at least they should be allowed only for small nonhazardous air pollution sources.

*General permits should not be allowed or should at least be confined to small non hazardous air pollution sources.*

---

### **CONSTRUCTION PERMITS AND OPERATING PERMITS**

There are two ways to proceed with construction and operation of a new or modified air pollution source: 1) require two different permits with public comment on each or 2) "roll over" the construction permit into the operating permit without another opportunity for public comment. The second option should not be allowed because the public should have the broadest possible opportunity to comment on construction and operation of air pollution sources.

*The construction permit process and the operating permit process should be separate and not combined.*

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### **ADMINISTRATIVE AMENDMENTS**

DEQ proposes to use administrative amendments for corrections of baseline emissions and plant site emission limits and of minor misinterpretations on the basis of DEQ approval. DEQ also proposes to eliminate group processing of minor permit modifications.

*The public should participate in a determination of where the "corrections" result in actual emission increases and whether misinterpretations are really "minor" before the administrative amendment*

*process is applicable. No group processing of minor permit modifications should be allowed.*

---

### **HAZARDOUS AIR POLLUTANT (HAP) CONTROLS**

Hazardous air pollutants ("HAP's") by definition impose a risk to public health and the environment. Toxicity of these substances varies from extremely potent carcinogens to significantly less hazardous material. Oregon policies and rules should take aggressive action to reduce emissions as much as possible.

### **IMPLEMENTING HAP MINIMUM FEDERAL PROGRAM**

DEQ plans to implement only the minimum federal requirements at this time. This would leave gaps through which many HAP's can slip. DEQ should use its existing authority -- which preceded the federal law -- to set necessary standards and conditions.

*DEQ should implement requirements beyond the minimum federal program where needed to cover gaps.*

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### **LIST OF HAP'S REQUIRING DISCLOSURE**

DEQ proposes to require emissions disclosure of 200 chemicals in addition to the 189 regulated HAP's on the federal list. DEQ should at least gather data on these additional chemicals to facilitate future decisions critical to public health. DEQ also has an interim policy that requires reporting of 350 or so additional chemicals, for a total of 700+ HAP's. The additional reporting burden is a direct consequence of the "scientifically defensible criteria" rule which industry requested, and therefore industry should bear the cost of reporting. DEQ proposes emissions of 1000 pounds per year as a minimum threshold for reporting. This threshold is much too high for very hazardous carcinogens, and the cumulative effect with the prolonged air stagnation in Southern Oregon should be taken into account.



#19

June 19, 1993

Hearing for Air Quality Control.  
 Lung disease is the 3rd  
 leading cause of death and growing  
 faster. When you are debating  
 air quality control please re-  
 member how many people  
 have breathing problems. I  
 have asthma and bronchitis.  
 Clean air is a matter of life  
 Bad air could bring death.  
 Its just that simple. Its  
 anything more important than  
life.

Yours truly  
 Mary M. Ford  
 839 Woodbridge Dr.  
 Medford, O.R.  
 97504

July 3, 1993

M9-A

Dear Mrs. Lauman,

I support the Air Quality Coalition's recommendations for the proposed air quality permit program.

Let Oregon be able to point with pride at the progress being made in air quality.

Mary K. Ford

739 Woodbridge Dr.

Medford, Oregon

97504

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AIR QUALITY DIVISION  
Dept. Environmental Quality

# FRIENDS OF THE GREENSPRINGS



A-14

FOP 15

Sara Lauman  
DEQ Air Quality Division  
811 SW Sixth  
Portland, OR 97204

July 2, 1993

Dear Sara,

Friends of the Greensprings is a community non-profit organization located in southwestern Oregon, east of Ashland in the Cascade Mountains. We represent approximately 300 members, as well as a large following among the people of our rural community and the nearby Rogue Valley. This letter comments on the DEQ Draft Rules implementing The Clean Air Act of 1990.

Friends of the Greensprings endorses the recommendations of the Coalition to Improve Air Quality which are as follows:

1. There should be no backsliding on current enforcement; "Highest and Best" standards should be retained.
2. A minimum of 30 days (not 14) after public notice should be allowed in which to request a hearing.
3. Emissions fees collected from industrial sources must be adequate to cover all operating costs of the federal permit program as required by the CAA and to cover the additional DEQ studies and data collection required to meet the scientifically defensible needs test imposed by Oregon's HB 2175 requirement.
4. General permits should not be allowed, or at least should be confined to small non hazardous air pollution sources.
5. The construction permit process and the operating permit process should be separate, not combined.
6. No group processing of minor permit modifications should be allowed. The public should be involved in determining "corrections" and whether misinterpretations were "minor" before the administrative amendment process applies.
7. DEQ should implement requirements beyond the minimum federal program where needed to cover gaps.

FOG • 15097 Highway 66 • Ashland, OR 97520

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AIR QUALITY DIVISION  
Dept. Environmental Quality

Friends of the Greensprings  
DEQ Draft Rules  
Page 2 of 2

8. We strongly support adding the 200 HAP chemicals and retaining the current list for a 700+ total. Any compound with a structure chemically related to a HAP should be classified as such until proven otherwise. The threshold concept is progressive and extremely important, but the 1000 lb. criteria may not be adequate in all circumstances.
9. We strongly urge continuing the existing air toxics policy while preconstruction permits for HAP sources are processed. This will ensure regulation of some HAP sources even though the federal agency has not acted.
10. Additional emission reduction measures should be applied to new HAP sources, especially where cumulative impacts with existing sources.
11. Area HAP sources should not be exempted from Oregon's existing operating permit program.
12. Citizen petitions identifying area source categories should be permitted and if substantiated should require development of standards by DEQ.

In addition to the above mentioned recommendations, Friends of the Greensprings wishes to point out the possible future conflict between the public's desire for clean air and the necessity for increased controlled burning in the forests surrounding the Rogue Valley. Do the rules address this issue? If not, it would be useful to do so. At some time in the future, it may be necessary to begin burning public lands in order to create healthier forests by mimicking natural fire cycles which are currently suppressed. We realize that this creates problems for the public who justifiably want clean air.

Sincerely,

*Nancy Linton, staff*

Nancy Linton, Staff  
For Friends of the Greensprings

~~M-16~~  
FOP 16

July 3, 1993

Sara Lauman  
DEQ Air Division  
811 SW Sixth St.  
Portland, OR 97204

I support the Air Quality Coalition's recommendations for the proposed air quality permit program.

Until there is something done in the Medford area to reduce automobile emissions from ALL cars using our streets and highways, we're going to have bad air. People living in outlying areas are not required to have I&M, and those are the cars that need it most. On several occasions when I've driven beside or behind a smoking vehicle I've had an opportunity to ask the driver if his vehicle had been inspected. All replies were "no, I live out of Talent, or whatever area." This is absolutely ridiculous!

Good Luck!

*(Signature)*  
Anne K. Gottschalk  
50 Allen Lane  
Talent, OR 97540

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Dept. Environmental Quality

7-2-93

~~M17~~  
FOP 17

Sara Lauman  
DEQ Air Division  
811 SW Sixth St.  
Portland, OR 97204

Dear Miss Lauman:

I support the Air Quality  
Coalition's recommendations for the  
proposed air quality permit program.

Sincerely,  
Miriam E. Mc Mullen

654 Carrington Ave.  
Medford, Oregon 97504

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Dept. Environmental Quality



POSITION PAPER ON PROPOSED AIR QUALITY  
INDUSTRIAL SOURCE RULES

ST  
FOP 18

June 28, 1993

Oregon Department of Environmental Quality  
Air Quality Division  
811 SW Sixth Avenue  
Portland, Oregon 97214

Re: Position on Proposed Air Quality Industrial Source Rules

The undersigned submit this position paper in support of an aggressive air quality program that will work toward achieving and maintaining clean air and protecting public health and the environment.

Background

One of the major reforms of the Clean Air Act of 1990 is the establishment of an operating permit program to track air pollution from industrial sources. Congress intended the permit program to:

- provide accessible information about the emissions and control strategies of an industrial source;
- monitor and enforce emission limits;
- generate emissions-based fees to cover program costs;
- invite public participation in the permitting process.

A recent statewide survey by the Oregon Business Council as reported in The Oregonian (4/25/93) confirms that Oregonians highly value the natural environment and want their quality of life maintained and improved. Environmental quality ranked third among the values most important among those surveyed. There is little question that people and industries are drawn to Oregon for its beautiful natural environment.

As population growth brings more automobiles and industry, air pollution will worsen. Associated with such environmental degradation are increased health care costs, higher mortality rates, and a decreased quality of life. At a minimum we must maintain air quality in areas where it is now acceptable and improve conditions in those areas which are in non-attainment of minimum air quality health standards.

General Positions

The undersigned oppose any rules that do not adequately address the following issues:

\*No Backsliding on Current Programs and Policies. We oppose any weakening of existing rules, policies or programs. In particular, we oppose deletion of the list of 800 hazardous chemicals currently used to quantify emissions from a source. We strongly oppose industry's

proposal to repeal the existing Highest and Best Practicable controls rule unless it can be replaced with equivalent standards covering all sources statewide while allowing additional stringency for non-attainment and other especially sensitive places such as wilderness areas. The objective of the program should be towards continued reductions of emissions for the public health and welfare rather than to create increased air shed capacity just to be filled by more emissions.

\*Public Notice and Hearing. The public must be informed and given adequate opportunities to be heard on all significant proposals related to air pollution emissions. There must be public notice and participation during a pre-construction review for any new or major modification. Current EPA regulations are riddled with loopholes that make citizen tracking difficult or impossible and are currently in litigation. State rules must go beyond weak minimum federal requirements to provide opportunities for broad public review of and participation in the permitting of a facility and enforcement of the permit. For this reason, we oppose the following: general permits, for all except a narrow category of non-controversial, non-major, non-hazardous sources; broad definitions of "insignificant activities"; use of administrative amendments for anything but actual administrative amendments. We also oppose allowing any increase of regulated pollutants to qualify as an off-permit change.

\*Judicial Review of Permits and Permit Enforcement. All affected citizens must have broad rights to bring actions under the air program where appropriate. The Department must have the ability to quickly and effectively enforce the rules. The rules should not contain loopholes that allow companies to exceed permitted emission levels or otherwise violate permits or rules. For this reason, we oppose the broad affirmative defense for excess emissions proposed by industry.

\*Aggressive Air Toxics Programs. Hazardous air pollutants by definition impose a risk to public health and the environment. Oregon policies and rules must take aggressive action to reduce emissions of hazardous air pollutants. For example, the Department should not indefinitely defer permitting of "non-major" sources of hazardous air pollutants. We support the Department's intention to address residual emissions of hazardous air pollutants in the new rules.

\* Adoption of Future EPA Rules. The Department and the Commission should not adopt new EPA rules or guidelines without public notice and hearing, and should consider circumstances in Oregon that may make the EPA approach insufficient for Oregon. The rules should set forth a process for amending the rules that ensures local and state conditions will be a factor in any new rules.

\* Ensuring Compliance with the Federal Act. Some current regulations promulgated by the EPA are being challenged in court. During the development of one rule, even EPA's general counsel agreed that it did not comply with the intent of the federal act. It is likely that EPA will have to rewrite all or part of the operating permit regulations, which would require state programs to be rewritten if states simply opt to meet the minimum EPA requirements. The Department should ensure that its rules at least meet the intent of the federal act and propose rules stronger than EPA's where appropriate.

\* Permit Shields. Section 70.6(f) authorizes state and local air regulators to include a provision in operating permits that protect the permitted source from allegations that the source is not in compliance with applicable requirements, provided the source is in compliance with the terms of the permits. The regulations do not require that permit shield provision be included in permits and we urge the Department not to include such shields.

6/28/93  
TM

\* Fees. Fees should be sufficient to cover all aspects of a full program. In the proposed rules the Department is doing less than it should because of limited resources. The Department should collect fees that are adequate for a complete program. Furthermore, fees should be based on permitted emissions rather than presumed actual emissions unless the source uses full time Continuous Emissions Monitoring (CEM) data to remonstrate their actual emissions. Fees should be automatically increased for inflation rather than having the Commission make such a determination.

We appreciate the complexity of these issues and the Department's time and efforts spent to date. We hope to work with the Department to address the issues identified above and any other issues that may arise.

Sincerely,

Lauri Aunan at 231-4181, Karyn Jones at 567-6581, Bob Palzer at 238-0442, Ruth Duemler at 484-6145

- Citizens for Environmental Quality
- Sierra Club, Oregon Chapter
- OSPIRG
- David Paul
- Oregon Environmental Council
- David Hawkins, Senior Attorney, Natural Resources Defense Council
- Northwest Environmental Defense Center
- Oregon Office of the Wilderness Society
- Wally Skyрман, Southern Oregon Regional Board of the American Lung Association of Oregon
- Rogue Valley Audubon
- Headwaters
- Murphy Citizens Advisory Committee
- Coalition to Improve Air Quality
- Better Breathers
- Citizens for Quality Living
- Harry Lonsdale, concerned citizen
- Katharina Woodward, concerned citizen
- Wilber Slockish
- Audubon Society of Lane County
- Operation Ozone Shield
- Northwest Coalition for Alternatives to Pesticides
- Save Our ecoSystems (SOS)
- Friends of Bufford Park and Mt. Pisgah
- Willamette Greens

Karyn Jones, Citizens for Environmental Quality \* Bob Palzer, Sierra Club  
Lauri Aunan, OSPIRG

P9

FOP 19

VIA FACSIMILE AND MAIL

July 8, 1993

Oregon Department of Environmental Quality  
Air Quality Division  
811 SW Sixth Avenue  
Portland, Oregon 97214

Re: Comments on Proposed Industrial Source Air Quality Rule Package

Thank you for the opportunity to comment on the above. These comments are in addition to the general comments contained in the Position Paper dated June 25, 1993, signed by a coalition of groups and individuals.

General Comments

•**No backsliding.** The Department should not backslide on existing programs and policies. Some of the proposed rules will weaken existing DEQ authority to regulate air pollution. This is unacceptable. The DEQ should not weaken existing rules, policies or programs. In particular, we strongly oppose repealing the current Highest and Best rule that requires the DEQ to impose permit conditions on air pollution. This existing rule must not be weakened. Rule making authority is not an acceptable way to handle loss of existing authority under the Highest and Best Rule. We strongly urge you to oppose deletion of any chemicals currently on the list of 800 hazardous chemicals currently used to quantify emissions from a source.

•**Public notice.** The public must be informed and given adequate opportunities to be heard on all significant proposals related to air pollution emissions. There must be public notice and participation during a pre-construction review for any new or major modification. State rules must go beyond weak minimum federal requirements to provide opportunities for broad public review of and participation in the permitting of a facility and enforcement of the permit. There must be at minimum of at least 30 days to request a public hearing after public notice has been sent out, not the 14 days as is proposed to remain unchanged from present practice.

This change will be beneficial for all parties. It will help the public in giving them more time to learn more about what is being proposed before having to lock in on having a hearing. The increase in the amount of time could help both DEQ and industry for those cases in which potential disputes can be resolved by a better understanding of what is being proposed or a possible resolution by a pre hearing modification of a proposed permit. We support DEQ's proposed inclusion of those who participated in the public participation progress to be considered to be "adversely affected" or "aggrieved" in addition to residing close to the facility and other requirements of ORS 183.484.

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Dept. Environmental Quality

•**Judicial review; enforcement.** All affected citizens must have broad rights to bring actions under the air program where appropriate. The Department must have the ability to quickly and effectively enforce the rules. The rules should not contain loopholes that allow companies to exceed permitted emissions levels or otherwise violate permits or rules.

**Sufficiency versus stringency.** DEQ is seeking special comment on criteria that it should use to determine those instances in which Oregon industrial permit requirements should exceed the federal minimum. This requirement was mandated by HB 2175 in the 1991 legislature at industry insistence. Under this constraint DEQ must come up with criteria and the resources to conduct scientifically defensible reasons to justify a stronger than minimal program. One answer to this problem is to include a blanket increase in the industrial emission fees structure to fund the special research and studies that this requirement has imposed. Furthermore, all existing programs should be maintained at no less than current levels of stringency to prevent backsliding. Additionally, there should be extensive data collection and reporting on all hazardous substances found at an industrial source to assist DEQ in making a determination of need for more stringent regulations. Industry asked for it...and they should be made to pay for these additional programs.

•**Hazardous air pollutants (HAPs).** Hazardous air pollutants by definition impose a risk to public health and the environment. The toxicity of these substances varies considerably from extremely potent carcinogens to significantly less hazardous material. Unfortunately, a source is determined to be a major source only on the basis of tons produced per year regardless of the potency of the air toxics it releases. Furthermore, the Clean Air Act only identifies 190 of these air toxics. DEQ has requested comment from the public on a process to be used to modify the list of HAPs. We recommend that DEQ continue to require reporting on the 700 plus HAPs that are covered by the current interim policy. DEQ is actively soliciting comments as to whether this interim policy would be continued and we strongly urge that you request a continuation of this reasonable and very important activity.

Furthermore, we strongly recommend that any compound that has a chemically structural relationship to a HAP also be considered to be a HAP until proven otherwise. This would be similar to current legislation identifying chemicals similar in structure to abused drugs to be classified in the same category as the identified drugs. This would protect against minor modifications made to produce "designer HAPs" that would then escape regulation.

Oregon policies and rules must take aggressive action to reduce emissions of hazardous air pollutants. For example, the Department should not indefinitely defer permitting of "non-major" sources of hazardous air pollutants. We support the Department's intention to address residual emissions of hazardous air pollutants in the new rules.

DEQ is also seeking comment on their proposed 1000 pound per year threshold as a minimum cutoff for quantifying emissions of additional chemicals not on the Clean Air Act HAP list. Furthermore, DEQ is asking for public comment on the adequacy of the 1000 pound threshold for public health and information process and the additional burden it might require upon industry. We strongly recommend that the half-ton minimum limit is much too high for very

hazardous compounds such as HAPs known or suspected of causing cancer in humans. Industry has asked for the additional burden of information gathering and reporting to allow DEQ to establish the scientifically defensible criteria it must obtain to require more stringent requirements than mandated in the Clean Air Act.

Oregon has periods of prolonged air stagnation where these pollutants can build up to effective concentrations that would be greater than if similar concentrations were released elsewhere in the country. A well-documented national EPA study showed Oregon to have the greatest potential for winter air stagnation conditions in the country. This information alone should be sufficient to prove a need for lower thresholds in this state.

**De minimis HAPs standards.** DEQ is seeking comment on their proposal to use de minimis levels for HAPs that coincide with those in interim EPA draft guidance on this issue. We strongly support this concept and applaud DEQ for taking this bold step in addressing the different toxicity of different HAPs.

### Specific Comments

**Public Notice.** (Page I-32) 14 days is not enough time to receive or see the public notice, request a copy of the permit, review the permit, and decide whether to request a public hearing. We believe all of DEQ's programs should provide for a more reasonable public notice and hearing process, but if this is not done for all programs, should at least be done for the industrial air program, since the rules are being redone now.

**General Permits.** (Page I-32) General permits should not be allowed at all. If they are allowed they should only be for small, non-hazardous air pollution sources. The DEQ proposes to allow general permits for hazardous air pollution sources "which do not yet have applicable [federal]standards." (Page I-33.) However, the proposed rules provide for case-by-case standards for new or modified hazardous air pollution sources if no federal standard is available (page I-47). Since there are to be state standards in the absence of federal standards, general permits for hazardous air pollution sources should not be allowed.

**Construction Permits/Operating Permits.** (Page I-34) The public should have the broadest possible opportunity to comment on air pollution sources' construction and operation. There should be two separate public procedures for the Construction Permit and Operating Permit.

**Listing Emissions of Hazardous Air Pollutants.** The DEQ proposes on page I-54 to require air pollution sources to disclose emissions of 200 chemicals in addition to the 189 chemicals that are on the federal list. We strongly support this idea. On page I-55 the DEQ discusses its current list of over 750 pollutants that may be considered for control. This list of over 750 must be retained, must be able to be considered for control, and must be used to require air pollution sources to disclose emissions of the 750-plus list.

**Implementing Minimum Federal Program.** On pages I-57 and I-58, it is stated that the

Department is implementing only the minimum federal requirements at this time. This will leave gaps in the program through which many hazardous air pollutant sources may slip. The Department should implement requirements beyond the minimum federal program where needed to cover gaps in the federal program. The Department should use its existing authority, which preceded the federal law, to set standards and conditions needed to ensure air pollution is controlled.

**Amending the List of Hazardous Air Pollutants.** (Pages I-58-I-59) We support the proposed rule but think it should require adding a chemical to the state list if the EPA adds a chemical to the federal list. We also believe that any chemicals from other federal and state lists should be proposed to be added as soon as possible through state rule making. The fact that chemicals have been identified and listed by federal and state agencies is a strong indication of adverse effect. There are hundreds of chemicals listed, and there are thousands and thousands of chemicals not listed. Getting at the hundreds listed is a start at addressing the serious health and environmental effects.

**Permit To Construct Major Sources of Hazardous Air Pollutants.** (Page I-60) The Department requests comment on the proposed procedure to obtain a preconstruction permit for hazardous air pollution sources and continued implementation of the existing air toxics policy during the interim (page I-60). We strongly urge the Department to continue the existing air toxics policy during the interim. This policy will ensure that some hazardous air pollution sources are handled through existing programs and do not drop out of regulation just because the federal agency has not acted.

**Data on Emissions of Non-Regulated Hazardous Air Pollutants.** On page I-69, the Department proposes to require hazardous air pollution sources to list routine emissions of about 389 chemicals when routine emissions are expected to exceed 1000 pounds per year. The Department seeks comment on "the adequacy of the 1000 pound threshold for public health and information purposes. . . and the additional reporting burden this places on the affected sources..." (Page I-69.)

We support the Department's proposal to require reporting on 389 emissions instead of only the 189 regulated emissions. There are many, many hazardous chemicals that are not regulated that we should at least gather information about so we know what is being emitted, at what location, and in what quantities. This information is critical to future decisions about public health and the environment. But we think the Department should go further and require reporting on the existing Department list of 750-plus chemicals; this would give even more information. Further, some chemicals may be so dangerous that 1000 pounds per year is too high a threshold, or they may be emitted in an area where many other sources are emitting dangerous chemicals just under 1000 pounds, but the cumulative impact is significant. The Department should take into account the location of the source, surrounding uses (schools, hospitals, sensitive wilderness areas) when setting the threshold. A blanket 1000 pound threshold may not be adequate in all circumstances.

**Emissions Limits for New Major Air Pollution Sources.** (Pages I-72 through I-74) Should sources of hazardous air pollutants be required to reduce emissions of those pollutants below the federal standards? The Department requests comment on the proposed requirement for applying additional emissions reduction measures on sources whose emissions of hazardous air pollutants exceed "de minimis" levels and "on the potential burden this places on sources versus the estimated incremental benefit to human health and the environment."

We strongly support the concept of requiring additional emission reduction levels to sources of hazardous air pollutants. Hazardous air pollutants are by definition dangerous to human health and the environment. They should be reduced as much as possible, especially if they are being emitted in a location that has other sources of hazardous chemicals being emitted into the environment.

**Requirements for Area Sources.** (Pages I-76- I-77.) "Area sources" are defined as sources of hazardous air pollution that emits less than 10 tons per year of any single hazardous air pollution or less than 25 tons per year of any combination of hazardous air pollution. Sources with emissions under these levels are not going to be covered by the federal air pollution standards for many more years. The earliest proposed deadline for standards is November 1999, and standards could well be delayed beyond that time. The Department requests comments on whether these sources should be exempted from Oregon's existing operating permit program or should be permitted under the existing program.

"Area sources" should not be exempt from Oregon's permit program, but should be permitted under the existing program. Exempting "area sources" could mean that a plant that emits 24 tons of hazardous air pollutant would not be subject to a permit! This is unacceptable.

The Department also requests comments on a process to identify "area source categories" not identified by the EPA and to develop standards for these sources (page I-77). Citizens should be allowed to petition the Department with lists of such categories. The Department should then be required to review the petition and develop standards if a showing is made that controls are needed for such categories.

Administrative amendments, page I-28, are done by the Department and the industry without public notice or participation. Comment: The public should be able to be certain that such "corrections" do not result in actual emissions increases and that misinterpretations really are "minor". There should be public notice that such amendments are proposed and public ability to review the information. If there are actual emissions increases or major misinterpretations shown by the public, the amendments should not be administrative.

Page I-30, the Department solicits comments on the merits and need for group processing. Comment: We strongly agree with the Department's proposal not to provide for group processing of minor permit modifications. We oppose group processing.



DEPARTMENT OF ENVIRONMENTAL QUALITY  
Air Quality Control  
Date Received: 7/12/93  
Acknowledged By: TM

18181 S.W. Kummrow Rd.  
Sherwood, OR 97140-9164

July 8, 1993

Oregon Department of Environmental Quality  
Air Quality Division  
811 SW Sixth Avenue  
Portland, OR 97214

712  
FOP 20

Re: Position on Proposed Air Quality Industrial Source Rules

No level of air pollution is safe. As a physician specializing in pulmonary medicine, current President of the Oregon Thoracic Society and Board member of the Oregon Lung Association, Tom daily treats citizens affected by Oregon's air pollution. Current American Lung Association statistics indicate a frightening increase in deaths and hospitalizations from asthma and other respiratory disease which have been directly associated with levels of air pollution. Age adjusted asthma deaths rose by 56% between 1979 and 1989, and illness associated with asthma has increased by 71% since 1970. The threshold of tolerance for air pollutants has been exceeded for the population at large. Damage is particularly severe for the young and the elderly. The cost to U.S. society for this illness caused by air pollution is also enormous and has been estimated by the American Lung Association at \$50 billion each year. Unfortunately neither EPA (which has been sued by the Lung Association to lower its ozone limits) nor Oregon's Environmental Quality Commission has used this data in determining acceptable levels of air pollution.

Although industrial air pollution will not be totally eliminated in the near future, DEQ's standards could immediately better reflect known health data and its commitment to identifying all sources of air toxics could at least not deteriorate. DEQ's objective should be to reduce the overall levels of industrial air pollution rather than to broker distribution of current or increased levels of pollution in Oregon's air shed.

DEQ has been publicizing an estimate of industrial pollution at only 7% of the total air pollution in the Portland Metro area. Through her participation in the Governor's task force on Auto Emission Reduction in the Portland Metro Area, Lisa had access to detailed information on sources and points out that this data only refers to major sources as defined by current regulations. The Lung Association estimates that vehicle emissions account for no more than 56% of various air pollutants. DEQ's permitted levels, used for their 7% estimate, do not reflect actual emissions of major sources. We have attended many Air Quality hearings to increase permitted levels of pollution for major sources. In every case the company had been exceeding their permitted level by at least 100%. They had been "caught" by DEQ and the penalty was to increase their permitted level. The Advisory Committee should realize that the actual proportion of air pollution added by industry is far greater than 7%. Your work is very important to the health of Oregon citizens.

We have experienced first hand the threat of dramatically increased air pollution in our own community, and have provided assistance to a number of grassroots organizations attempting to at least understand the levels of air pollution in their communities. Citizens know that air pollution is not safe and want levels reduced. They also know that dangerous levels of air pollution surrounding plant clusters are ignored by DEQ even though increasing air pollution lowers the quality of life, life expectancy and property values surrounding those clusters. Articles and references to support our concern have already been submitted by us to DEQ. The most recent and complete set should be on file with our comments on the proposed air quality permit for S. Vincent Hospital's medical and solid waste incinerator.

Our endorsement of your environmental representatives' position on the regulations has been prefaced with these remarks to remind you of the real-world context that your decisions will impact. These regulations will significantly affect your health, the health of your children, and the community you live in. Behind the seemingly arbitrary numbers is reality. Rise to the occasion and act responsibly.

We agree entirely with the statements provided in said letter and wish to amplify upon these as well as to add some suggestions of our own:

**No Backsliding on Current Programs and Policies.** It would be very difficult to make a case that the current DEQ rules are either too harsh or too hard to understand. If anything, they are too easy to work around. In particular, the Highest and Best Practicable controls rule **must** be maintained.

**Aggressive Air Toxics Programs.** This remains an area in which DEQ has lagged behind several other states. Oregon is thought of outside the state as aggressively interested in the quality of our environment. It is critical that you follow through on your intention to address residual emissions of hazardous air pollutants.

**Permit Shields.** Do not include these in permits!

**Fees.** It is appropriate and crucial that the fees charged for permits cover all costs involved. We agree strongly that these need be based on permitted emissions except in those cases where a permittee uses full time Continuous Emissions Monitoring and support basing fees on levels of pollution. This market based approach will provide incentives to reduce pollution.

**Take current pollutants into account.** For an airshed that already contains pollutants, especially in non-attainment regions, modeling should take into account worst case conditions of pre-existing air pollution when evaluating the impact of a proposed new source. Even minimal source permits should be looked at carefully with regard for their ability to aggravate existing problems. Protect local community air quality.

**Monitor and regulate minimal sources.** It appears that the proposed new regulations would discontinue permitting and monitoring of minimal sources while adjusting the definition of major source. Your document states that this represents 1,000's of sites each of which could release up to 10 tons of an individual toxic material or up to an aggregate of 25 tons per source. This would allow unregulated and unmonitored release of 50,000,000 pounds per year of toxic material. The number of such sources could increase with absolutely no checks. This is not an acceptable condition. The permitting process for small business could be streamlined without eliminating the requirement for reporting and controlling toxic emissions.

**10 tons of 2,3,7,8-tetrachlorodibenzo-p-dioxin is not acceptable,** and EPA levels of "acceptable risk" do not reflect current scientific knowledge. The toxics you will consider vary in their toxicity and health risk to people and the environment. A single numeric value fails to reflect this differential effect. Upper limits should be set and published for each material.

We are hopeful that this process will result in a better and more effective regulatory process in all stages. Much of what is proposed is heading in the right direction. Let's not spoil it with dangerous loopholes.

Regards,



Thomas B. Stibolt, Jr.



Lisa P. Brenner

11233 Corp Ranch Road  
Ashland, OR 97520  
July 6, 1993

DIS  
FOP 21

Air Quality Division  
Department of Environmental Quality  
811 SW Sixth Ave.  
Portland, OR 97204

Dear Sirs:

As a physician who is very concerned about the impact of air pollution on the citizens of Oregon, I am writing to urge that realistic standards for industrial air quality permits be adopted which do in fact protect long term public health in the state. There is ample and overwhelming evidence that inadequate standards for industrial air quality do have a serious impact on the health of people of all ages, but most particularly on children and the aged.

To be more specific, it is important that no existing programs and policies be weakened. It is strongly urged that you do not repeal the current *Highest and Best Rule* that requires the DEQ to impose air permit conditions on air pollution. It is further urged that at least 30 days public notice, instead of the current 14, be given before all public hearings, to permit the public to have adequate time to learn about what is being proposed, so that informed comment can be forthcoming. The right of affected citizens to bring actions under the air program, where appropriate, must be guaranteed. The DEQ must have the ability to promptly and effectively enforce the rules, and rules must not contain loopholes that allow companies to exceed permitted emission levels or otherwise violate permits or rules.

Particular attention must be paid to the continued reporting by the DEQ on the current 700 plus hazardous air pollutants that are covered by the present interim policy. Any proposal to weaken reporting should be resisted, and permit fees should be sufficient to insure that there is continued scientific research on the nature and long term health effects of hazardous air pollutants. In this regard it is felt that the proposed 1000 pound per year limit on emission is much too high for the more toxic HAPs, particularly in industrial areas where more than one industry is emitting one or more specific highly toxic pollutants.

It is felt that the DEQ proposal to implement only minimal federal requirements at this time is inadequate to protect

Page 1

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Dept. Environmental Quality

air quality to the extent needed to insure public health in Oregon, because the federal standards leave gaps in the program through which many hazardous pollutants may slip. Likewise, if the EPA adds a chemical to the federal list the chemical should be added to the state list.

To strike a realistic balance between the economic health of the state and of the country and the physical health of their citizens must appear at times to be an overwhelming task. Please be assured that your efforts, which will have an important impact on the health of this and future generations of Oregonians, are very much appreciated.

Sincerely,

*William E. Lucas, M.D.*  
William E. Lucas, M.D.

Ashland, OR  
June 26, 1993

PH  
FOP 22

Kevin Downing

Sara Lauman  
DEQ Air Quality Div.  
811 SW Sixth  
Portland, OR 97204

Dear Ms. Lauman:

I am writing to urge DEQ to maintain the strongest standards for air quality in Oregon.

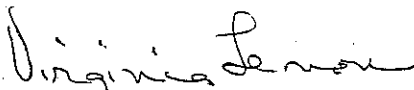
We cannot afford any relaxation of the standards we now have. Even at the present level, they are not high enough. Air is our most precious resource. We cannot afford to have it damaged for any reason whatsoever. Economics must take a back seat when it comes to the air Oregonians must breathe.

The Highest and Best standard must be maintained.

Corollary actions should be taken: general permits should not be allowed; the construction and operating permit processes should be kept separate; there should be no group processing of minor permit modifications, and the 200 HAP chemicals should be added to the current list.

I would ask that DEQ stay strong and determined in protecting our air.

Very truly yours,

  
Virginia Lemon, Ph.D.

332 Hargadine St.  
Ashland, OR 97520

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JUN 28 1993

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Dept. Environmental Quality

D17  
FOP 23

RAYMOND P. NOLAN, M.D., PH.D., P.C.  
PHYSICIAN  
WOODLAND MEDICAL VILLAGE  
1890 WAITE, SUITE 5  
NORTH BEND, OREGON 97459

DIPLOMATE - AMERICAN BOARD  
OF INTERNAL MEDICINE

INTERNAL MEDICINE  
ENVIRONMENTAL HEALTH  
OCCUPATIONAL MEDICINE

Air Quality Division TELEPHONE 756-2026 · FAX 756-3414  
Dept Environmental Quality  
811 SW Sixth Ave  
Portland, Or 97204

RE: Draft rules on air quality permit program

Dear Sirs:

As you review draft rules to meet the requirements of the Clean Air Act of 1990 it is critical that you place the health and welfare of Oregonians first, and resist efforts of industry special interests to weaken air quality regulations for their self serving reasons.

Although this is a broad and complicated area which does not lend itself to great detail about its various facets in a written testimony such as this I would urge you to consider the following suggestions. As a state we may be better than many, but we have little to be proud of in the area of air quality. In my community alone we have a major employer, Weyerhaeuser, s North Spit containerboard mill, with air emissions threefold higher than permit allowances for over a year now with a noticeable decline in air quality and, in my medical practice, some definate suggestion of an increase in respiratory and upper respiratory complaints among residents. Among the suggestions to protect our population from the effects of poor air quality it is important that there be no deletion of the list of 800 hazardous chemicals currently used to quantify emissions from a source and that the existing Highest and Best Preacticable controls rule be retained. We should be striving for continued reductions of emissions in the interests of public health. We need severe restrictions on any use of general permits to be limited only to compounds universally accepted as non hazardous and strict limitations of use of administrative amendments.

There must be a system of judicial review of permits and permit enforcement and there must be a mechanism whereby citizens can bring action under the air program when appropriate. And there should be manditory public notice when there is permit noncompliance. On 2 July 1993 I treated a Weyerhaeuser containerboard employee for newly diagnosed asthma and he had no knowledge that his own mill was a major air polluter and had accumulated over \$140,000 in theoretical fines (You might be interested in following up on how much the Weyerhaeuser attorneys are actually going to be willing to give to DEQ in the "negotiations").

The bottom line here is that, from what I see going on, I am not

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Dept. Environmental Quality

overly impressed by our effectiveness in maintaining good air quality. We are all doing the best we can but we absolutely need good strict state standards or else certain industries will simply walk all over our rights to clean air and a healthy environment. You will be making a number of choices here where you have to choose between protection of the rights of Oregonians to clean air versus what industry tells you will be good for the economy (translate as good for them and their stockholders). You represent Oregonians, not corporations. Please never forget that during your deliberations.

Sincerely,



Raymond P. Nolan, M.D., Ph.D.

Friends of the Steamings, Rogue Valley Audubon, Letter Breathers, The American Lung Association and others all coordinated by the Oregon D E Q.

P27  
FOP 24

This is certainly not a time to relax, too much is at stake. Diligence must be maintained. In fact these rules should be made more ardent now as future growth is inevitable and with it comes more and more pollution...

As far as the public notice of only 14 days for permit application the D E Q should seek to extend the State law to the bare minimum of at least 30 or even 60 days. This would enable a concerned public to be more cognizant and also prevent anyone from slipping stealthily an ordinance in that would adversely effect the air that they must be forced to breathe.

I personally believe D E Q to be doing a very good job especially in meeting the scientifically justifiable requirements imposed by H. B. 2175, however I feel that it has a poor reputation as some consider it to be "big <sup>brotherism</sup> ~~brotherism~~" with out looking at its grass root strength which is almost all volunteer!

Again, thank you for holding public D E Q hearings around the State; for it is only with your help against the <sup>unfair</sup> profit motive extremist that both the populace at large and the future can be protected and a fair balance is made.

DEPARTMENT OF ENVIRONMENTAL QUALITY  
Air Quality Control  
Date Received: \_\_\_\_\_  
Acknowledged By: IM

7/17/93 Best regards, Tom Herz



Tom Kerr

DEPARTMENT OF ENVIRONMENTAL QUALITY  
Air Quality Control  
Date Received: 7/12/93  
Acknowledged By: TM  
PZ

Sara L. Laumann  
Clean Air Permit Coordinator  
Program Operations Section  
Oregon Department of Environmental Quality  
811 S.W. Sixth Avenue  
Portland, Oregon 97204-1390  
FAX 1 (503) 229-5517 and 1 (503) 229-5675

Dear Sara,

As a longtime member of the Rogue Valley Air Quality Coalition, among other concerned individuals who have gratefully attended your public hearings I wish you to know for certain exactly where I stand; and that is firmly and diametrically opposed to the <sup>unreasonable</sup> profit motives of big business and the potential undermining of the DEQ itself! For example with the DEQ leadership in just five years we have had rules against industry, wood stoves poorly used, open burning etc. and with the favorable recent weather patterns the difference has been striking. Some of the worst air pollution in the United States has been improved. In short it works! And it works here with the grass roots support of individuals and groups such as the Coalition to Improve Air Quality, Headwaters, Rogue Group of the Sierra Club,

PZY  
FOP 25

7-5-93  
Dear Sara, et. al.,  
I support the  
position of the  
Rogue Valley Coalition  
to Improve Air  
Quality. We are  
breathing easier  
here now due to  
tougher standards.  
Let's keep improving  
& not let this  
slip away from us.  
Eileen Adee

Eileen Adee  
1150 Jones Road  
Medford, Oregon 97501

M-15  
FOP 26

Janis R. Young  
350 High St.  
Ashland, OR 97520

June 28, 1993

Sara Lauman  
DEQ Air quality Division  
811 SW Sixth St.  
Portland, OR 97204

Dear Ms. Lauman;

Below you will find a summary of my brief, but earnest comments and recommendations on the DEQ's hearings for the proposed air quality permit program. It is my fear that industry will try to gut the proposed program to subvert the intent of the Clean Air Act and the public interest. Therefore I urge you to consider my views as I speak not only for myself but for the thousands of citizens in the state of Oregon who suffer from chronic cardiac and respiratory ailments.

**Re: Highest and Best Standard;** this rule should be retained as is, or if revised, such changes must allow DEQ to retain all the authority it currently has to "maintain overall air quality at the highest possible levels." The bottom line is that any changes to the highest and best rule should be limited to efforts to better define the means to attain the current objectives. Do not allow the present rule to be replaced with a watered-down rule.

**Re: Sufficiency versus Stringency;** where existing programs must be upgraded, they must be at least as stringent, even if the new Clean Air Act amendments doesn't require such stringency. In addition fees must be sufficient to cover all aspects of funding a fully effective program.

**Re: Administrative Amendments;** the public should participate in a determination of where the "corrections" result in actual emission increases and whether misinterpretation are really "minor" before the amendment process is applicable. No group processing of minor permit modifications should be allowed.

**Re: Minimum HAP Standards;** Oregon policies and rules should take aggressive action to reduce emissions as much as possible. DEQ should not settle for implementing only the minimum federal standards. This would leave gaps through which many HAPs can slip. The DEQ should use its authority, which preceded the federal law, to set necessary standards and conditions. Implement requirements

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Dept. Environmental Quality

beyond the minimum federal program where needed, to cover gaps in HAP control.

**Re: HAP Regulation and Permits;** any compound with a structure chemically related to a HAP should be classified as a HAP until proven otherwise. The threshold concept is extremely important, but the 1000 pound criteria may not be adequate in all circumstances, especially for hazardous carcinogens. The cumulative effect of Southern Oregon's air stagnation should be considered. In addition, continue the existing air toxic policy while preconstruction permits for HAP are processed. This will ensure regulation of some HAP sources even though the federal agency has not acted.

**Re: HAP Limits and Source Categories;** DEQ should support the proposal to apply additional emission reduction measures on new sources which exceed "de minimis" levels. DEQ should weigh the burden on industry with the health and environmental effects. It is important to control additional HAPs in a location where other HAPs are being emitted. In addition, area HAP sources should not be exempted from Oregon's existing permit program. And, petitions identifying area source categories should be permitted, and if substantiated, should require development of standards by DEQ.

Please keep in mind, these new industrial rules will revise and replace existing regulations and will take us well into the next century. The Clean Air Act will be the rule book for the future. If it is slanted towards industry with low standards and lax rules, it will be nearly impossible to make further progress, let alone maintain the improvement in air quality that we have experienced the past few years.

The Rogue Valley is very sensitive to the impact of pollution and we have the second highest concentration of some of the known HAPs in the state. It should be obvious to everyone that health standards will be exceeded in the future unless we take positive steps now. Let's not have any backsliding on the progress we've made to the present. I urge the DEQ to support the Coalition to Improve Air Quality's position on these matters.

Sincerely,

*Janis R. Young, RCP*  
Janis R. Young, R.C.P.

**REVISIONS TO THE MOTOR VEHICLE FUEL SPECIFICATIONS FOR  
OXYGENATED GASOLINE**

**Changes to Original Rulemaking Proposal  
in Response to Comments from Attorney General**

RULE NUMBER	CHANGE
OAR 340-22-650(2)	(2) The Department may <del>authorize</del> <b>propose to the Environmental Quality Commission</b> the <del>implementation</del> <b>adoption</b> of an equivalent alternative program to achieve necessary carbon monoxide emission reductions as a substitute for measures outlined in sections (1)(a)(A), (B), and (C) of this rule. An alternative carbon monoxide contingency plan which is <del>authorized</del> <b>adopted</b> by the <del>Department</del> <b>Commission</b> shall not become effective until approved by the EPA as a SIP revision.

**Reason for Change**

Further review by the Attorney General's office indicated concern that it was unclear that the EQC must adopt a SIP revision, in addition to EPA approval, before the Department can authorize implementation of alternative programs.

# REVISIONS TO THE MOTOR VEHICLE FUEL SPECIFICATIONS FOR OXYGENATED GASOLINE

## Corrections to Rule Numbering

<b>RULE NUMBER AS INITIALLY PROPOSED</b>	<b>RULE NUMBER AS SUBMITTED FOR ADOPTION</b>
OAR 340-22-440	Same
OAR 340-22-450	Same
OAR 340-22-460	Same
OAR 340-22-470	Same
OAR 340-22-480	OAR 340-22-490
OAR 340-22-490	OAR 340-22-500
OAR 340-22-500	OAR 340-22-503
OAR 340-22-510	OAR 340-22-507
OAR 340-22-520	OAR 340-22-510
OAR 340-22-530	OAR 340-22-520
OAR 340-22-540	OAR 340-22-530
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OAR 340-22-600	OAR 340-22-590
OAR 340-22-610	OAR 340-22-600
OAR 340-22-620	OAR 340-22-610
OAR 340-22-630	OAR 340-22-620
OAR 340-22-640	OAR 340-22-630
OAR 340-22-650	OAR 340-22-640
OAR 340-22-660	OAR 340-22-650

# Environmental Quality Commission

- Rule Adoption Item
- Action Item
- Information Item

Agenda Item D  
October 29, 1993 Meeting

**Title:**

Revisions to the Motor Vehicle Fuel Specifications for Oxygenated Gasoline

**Summary:**

This rule proposal meets the 1990 Clean Air Act requirement for states to adopt contingency plans for moderate carbon monoxide (CO) nonattainment areas by November 15, 1993. The measure must be implemented if any affected nonattainment area (Portland, Medford, Grants Pass or Klamath Falls) fails to meet National Ambient Air Quality Standards (NAAQS) for CO by the December 31, 1995 Clean Air Act deadline. If triggered, this rule proposal would initially require that oxygenates be supplied at maximum EPA approved levels in the affected control areas. After the CO contingency provision is triggered, the Department will review reported volumes of oxygenate supplied to the control area, to project whether a target oxygen content of 3.1% would be achieved through market forces. If not, a mandated 2.9% minimum average would be imposed on suppliers in subsequent years. This provision is a slight change from the originally proposed rule to address concerns of the oil industry about potential adverse market impacts. It provides a less burdensome approach to reach the contingency plan objectives.

In addition to the CO contingency plan, the proposal contains housekeeping changes to clarify and improve the organization of the oxy-fuel regulations to minimize misinterpretation.

**Department Recommendation:**

Based on the response to public comments and subsequent discussions with the affected industry and EPA, the Director recommends that the Commission adopt the amendments to the Motor Vehicle Fuel Specifications for Oxygenated Gasoline shown in Attachment A. The Director also recommends adoption of related changes to the Portland, Medford, and Grants Pass CO nonattainment plans as SIP revisions.

 Report Author	 Division Administrator	 Director
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October 11, 1993

†Accommodations for disabilities are available upon request by contacting the Public Affairs Office at (503)229-5317(voice)/(503)229-6993(TDD).

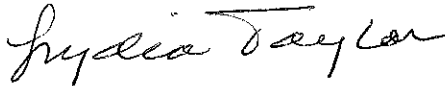
State of Oregon  
Department of Environmental Quality

Memorandum<sup>†</sup>

Date: October 13, 1993

To: Environmental Quality Commission

From: Fred Hansen, Director



Subject: Agenda Item D, October 29, 1993, EQC Meeting

Revisions to the Motor Vehicle Fuel Specifications for Oxygenated Gasoline

**Background**

On July 8, 1993 the Director authorized the Air Quality Division to proceed to rulemaking hearings on proposed rules which would: a) raise the average oxygen content in wintertime motor vehicle fuel from 2.7% to 2.9% as a means of meeting Environmental Protection Agency (EPA) carbon monoxide (CO) contingency plan requirements in Oregon's four classified CO nonattainment areas (Portland, Medford, Grants Pass, and Klamath Falls); and b) clarify and improve the organization of current oxygenated fuel (oxy-fuel) regulations through housekeeping amendments. The proposed CO contingency plan would be triggered in any CO nonattainment area which fails to meet federal standards by the December 1995 Clean Air Act deadline.

Pursuant to the authorization, hearing notice was published in the Secretary of State's Bulletin on August 1, 1993. Notice was mailed on July 15, 1993 to the list of those persons who have asked to be notified of rulemaking actions, and to a list of persons known by the Department to be potentially affected by, or interested in, the proposed rulemaking action.

The following public hearings were held:

8/16/93	7 p.m.	City Council Chambers, City Hall, 6th and A Streets, Grants Pass, OR Presiding Officer: Andrew Ginsburg
8/17/93	7 p.m.	Medford City Council Chambers, 411 W. 8th Street, Medford, OR Presiding Officer: Jacqueline Fern

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<sup>†</sup>Accommodations for disabilities are available upon request by contacting the Public Affairs Office at (503)229-5317(voice)/(503)229-6993(TDD).



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7 p.m. State Office Building, 800 NE Oregon Street, Room  
120, Portland, OR  
Presiding Officer: David Collier

8/18/93 7 p.m. County Commission Hearing Room, Court House  
Annex, Klamath Falls, OR  
Presiding Officer: Andrew Ginsburg

The Presiding Officer's Report (Attachment C) summarizes the oral and written testimony presented at the hearing and during the public comment period.

Written comments were received through August 18, 1993. These comments are included in Attachment D. (A copy of the comments is available upon request.)

Department staff have evaluated the comments received (Attachment E). Based upon that evaluation, and further discussions with the Western States Petroleum Association (WSPA) and the ethanol industry, modifications to the initial rulemaking proposal are being recommended by the Department. These modifications are summarized below and detailed in Attachment F.

The following sections summarize the issue that this proposed rulemaking action is intended to address, the authority to address the issue, the process for development of the rulemaking proposal including alternatives considered, a summary of the rulemaking proposal presented for public hearing, a summary of the significant public comments and the changes proposed in response to those comments, a summary of how the rule will work and how it is proposed to be implemented, and a recommendation for Commission action.

#### **Issue this Proposed Rulemaking Action is Intended to Address**

1. The Federal Clean Air Act Amendments of 1990 require states to adopt contingency plans for moderate CO nonattainment areas by November 15, 1993. These measures must be implemented if any affected nonattainment area fails to meet National Ambient Air Quality Standards (NAAQS) for CO by the December 31, 1995 Clean Air Act deadline. In accordance with federal guidance, the Department must be able to implement a contingency plan to achieve emission reduction effectiveness in a relatively short, 12-month time period, following the triggering of the plan. The emission reductions must be sufficient to offset one year of vehicle miles travelled (VMT) growth while an attainment plan revision is prepared over the same 12-month period. The contingency plan must be enforceable and ready to implement with no further rulemaking by the State or local ordinance adoption for measures implemented by local governments.

There were no exceedances of CO standards during 1992 in any of the four affected CO nonattainment areas (Portland, Medford, Grants Pass, and Klamath Falls). In general, CO emissions are on a downward trend in all of the areas and it is not expected that the contingency provision will need to be implemented. The Department has begun the necessary work for submitting a request to EPA for attainment redesignations, with priority for the Portland area. A CO attainment redesignation request for the Portland area is expected to be submitted to EPA in the fall of 1994. The accompanying documentation for that request will include a long-range maintenance plan.

2. The existing Motor Vehicle Fuel Specifications for Oxygenated Gasoline need to be amended so that: a) the rule requirements which apply to a particular method of dispensing gasoline are easier to locate; b) the rules list exempt dispensing sites; and c) the enforceability of rule requirements is strengthened.

#### **Relationship to Federal and Adjacent State Rules**

The EPA requires states to adopt CO contingency provisions for all moderate CO nonattainment areas. Oregon's proposed contingency plan, modified in response to the public hearing testimony, would require oxygenates to be supplied at maximum allowable oxygen contents (e.g., 3.5% ethanol and 2.7% methyl tertiary butyl ether (MTBE)). A specified minimum average oxygen content level of 2.9% would be required only if, in subsequent control seasons, the projected control area average oxygen content would be less than 3.1%. This projection will be based on reported oxygenate mix information submitted by the regulated community.

Some states are pursuing alternatives such as Employee Commute Options (ECO) programs (Nevada and Washington) and lowering Reid Vapor Pressure in tandem with boosting gasoline oxygen content (Arizona) to achieve required CO emission reductions. The Department analyzed ECO as a potential control strategy for all four Oregon CO nonattainment areas and determined that it would not produce enough emission reduction credit by itself to meet EPA requirements. ECO would also be relatively expensive in comparison to raising the oxygen content of wintertime motor vehicle fuel. The lowering of Reid Vapor Pressure (RVP) as a companion measure would be infeasible, because Oregon's wintertime average ambient temperature levels are typically less than 46° F., the threshold for the beneficial effect of RVP on lowering CO emissions.

The State of Washington is proposing to utilize its newly started vehicle inspection program in the Vancouver CO nonattainment area on an "over control" basis to meet the EPA CO contingency requirements by the November 15th Clean Air Act submittal deadline. This

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option is not available in Oregon, as the state's existing inspection and maintenance program would not achieve the needed additional CO emission reductions.

### **Authority to Address the Issue**

Pursuant to ORS 468A.420, the Commission has statutory authority to adopt OAR 340-22-660 and to amend OAR 340-22-440 through OAR 340-22-640.

### **Process for Development of the Rulemaking Proposal (including alternatives considered)**

1. In consultation with EPA staff, the Department relied on EPA's *Technical Support Document to Aid States with the Development of Carbon Monoxide State Implementation Plans* for basic guidance on CO contingency plan requirements. The Department initiated consultations with local governments during May 1993 on the need to develop CO contingency plans and some potential alternative measures for meeting the EPA requirements. Under the Clean Air Act, lead agencies responsible for the development of transportation control strategies are the Rogue Valley Council of Governments in the Medford area, the Metropolitan Service District (Metro) in the Portland area, and the City of Grants Pass. (The Department is currently designated as the lead agency for Klamath Falls.)

Alternative strategies were considered in addition to the option of boosting the oxygen content in motor vehicle fuel. Additional measures that appeared to be initially feasible included implementation of an Employee Commute Options (ECO) program in all four nonattainment areas and expansion of the vehicle inspection and maintenance (I/M) program boundaries in the Medford and Portland areas. The ECO program would need to affect all employers with 50 or more employees. The I/M program boundary expansion would bring in vehicles from the more rural areas not previously subject to testing. An important consideration is that these two measures could not work as stand alone alternatives to boosting oxy-fuel levels, and the ECO program in particular would have to be packaged with other measures to achieve the necessary emission reductions. These alternative measures would also have some difficult implementation issues to resolve, extending the program development time frame beyond the Clean Air Act deadline.

A briefing meeting was held with members of the Oxygenated Gasoline Program Advisory Committee on June 23, 1993. This group helped to develop the oxy-fuel program that was implemented in the fall/winter of 1992-1993. During public hearings and subsequent meetings with WSPA, the oil industry expressed interest in

developing substitute contingency measures at some point in the future. The Department has committed to considering such substitute measures if they meet EPA requirements for CO contingency provisions. However, such measures could not be implemented until approved by EPA as a State Implementation Plan (SIP) revision.

Representatives of the oil industry also expressed concern that at a minimum 2.9% oxygen content requirement, suppliers would be locked into exclusively using ethanol as the only practical additive that could achieve an oxygen content higher than the existing 2.7% requirement. To address this problem a variety of alternatives to the Department's original proposal were developed, discussed and refined. The resulting five alternatives are shown in Table 1 on the following page. Simultaneously, the Department pursued a waiver from EPA's "substantially similar" rule to allow fuel blends containing both MTBE and ethanol to be oxygenated above the 2.7% maximum and to allow MTBE to be used at an oxygen content level of 2.9%. In a September 27th letter of response, the EPA informed the Department that a waiver to allow dual blending, or a rule modification to allow a higher oxygen content for MTBE, would require substantial testing to ensure compliance with emission standards. In addition, EPA's processing time of a waiver request could take up to 180 days. Further pursuit of these options would not appear fruitful.

A conference call was held on September 27th between WSPA and some of its individual members, Ethanol Marketing, Inc., the Oregon Petroleum Marketers Association and the Department to review the five alternatives and seek consensus. After considerable discussion, agreement was reached on Option #3 as a compromise that all parties could accept. The preferred option provides assurances that a control area average oxygen content of 2.9% or higher will be achieved by: 1) requiring that ethanol be initially supplied at a 3.5% oxygen content when it is used; and 2) triggering a mandated 2.9% average before market conditions indicate average oxygenate levels will fall below the 2.9% target.

TABLE 1: Options for Meeting Carbon Monoxide Contingency Plan Requirements Through Modifications to the Oxygenated Fuel Rules (Potentially Approvable by EPA)

	OPTION #1	OPTION #2 (REVISED)	OPTION #3 (ORIGINAL)	OPTIONS #4a and 4b	OPTION #5
AVERAGE OXYGEN CONTENT REQUIRED	2.9%	2.9%	None unless projected average oxygen content is less than 3.1% as specified below		None
SPECIFIC OXYGEN CONTENTS REQUIRED	None	Ethanol - 3.5% (min)* MTBE - 2.7% (min)	Ethanol - 3.5%* MTBE - 2.7%		Ethanol - 3.5%* MTBE - 2.7%
DESCRIPTION	DEQ's original CO contingency provision; requires average oxygen content of 2.9%.	Requires average oxygen content of 2.9%. Also requires that oxygenates be supplied at minimum oxygen contents, set at 3.5% for ethanol and 2.7% MTBE.	Requires that oxygenates be supplied at maximum allowable oxygen content. Relies on market forces to achieve 2.9% average oxygen content. Average oxygen content of 2.9% will be required only if the projected average oxygen content is less than 3.1%, based on the reported oxygenate mix in the control area in previous year or any subsequent year.	4a) Adopt Option #1 with commitment to adopt #3 as a SIP revision if market competition is unreasonably restricted.  4b) Adopt #1 and adopt #3 as backup to be implemented upon EQC finding that market competition has been unreasonably restricted. (Saves time for EPA SIP approval)	If average oxygen content of fuel supplied in the control area and by individual CARs is less than 2.9%, a stipulated penalty will be collected from suppliers of 2.7% oxy-fuel. Penalty will be sufficient to achieve required emission reductions through vehicle scrappage or other alternative program.
ISSUES	Oil industry claims this is an ethanol mandate due to inability to dual-blend and the impracticality of averaging. They also claim this option eliminates competition in oxygenate market.	Does not fully satisfy oil industry's concern about market competitiveness.	Considered by ethanol industry as having unfair economic impact.		

\* 3.5% ethanol requirement could be lowered to 3.1% in any of the alternatives to reduce adverse economic impact on ethanol industry.

2. Housekeeping amendments to the oxy-fuel rules were based on input from the regulated community regarding problems with rule interpretation. Specific concerns included difficulty in locating applicable rule requirements and confusion over rule applicability. The proposed housekeeping revisions will reorganize the current rules to separate requirements for sites which dispense gasoline on a per gallon basis from those using an averaging method. In addition, an exemption from the rules will be provided for sites dispensing gasoline which will not be used in motor vehicles. This includes airports, marinas, saw shops, and farm equipment operators. The exemption is further clarified by including the EPA definition of "motor vehicle" in the rules. More explicit language throughout the rules will improve enforceability.

### **Summary of Rulemaking Proposal Presented for Public Hearing and Discussion of Significant Issues Involved**

The rulemaking proposal presented at public hearings contained the following elements:

1. An additional provision (OAR 340-22-660) in the Motor Vehicle Fuel Specifications for Oxygenated Gasoline which outlines the Department's CO contingency measure to raise the oxygen content in wintertime fuel from 2.7% to 2.9% in Oregon's four CO nonattainment areas;
2. Housekeeping amendments to the oxy-fuel rules to minimize misinterpretations by the public and regulated community. These amendments consisted of reorganization of the rules and minor wording modifications which: a) make it easier to locate the rule requirements which apply to a particular method of dispensing gasoline; b) list those dispensing sites which are exempt from the rules; and c) clarify the enforceability of rule requirements.

### **Significant Issues**

1. One key rulemaking issue is whether the Department should pursue a boost in the oxygen content of motor vehicle fuel as the only contingency measure for all four CO nonattainment areas. Other alternatives could be possible in Portland and Medford, but could not be adopted by the Clean Air Act deadline. Also, the alternatives would not be as cost-effective. EPA does not mandate specific control measures for CO contingency plans, but has suggested in the technical support guidance that a number of alternative measures could be considered, including boosting the oxygen content of wintertime gasoline. After reviewing EPA's list of potential measures against EPA's CO contingency plan criteria, the Department determined that only a few of the measures could potentially meet all

of the requirements for an approvable plan. A boost in motor vehicle gasoline oxygen content is the only measure that, by itself, could meet EPA's requirements for contingency plan effectiveness in all four areas. A combination of other measures, such as the expansion of vehicle inspection program boundaries and Employee Commute Options (ECO) programs in Portland and Medford, could also meet necessary emission reductions. However, according to the Department's Vehicle Inspection Program staff, a boundary expansion for vehicle testing would require additional testing stations in the Portland area, and these new stations could not be built and made operational within the 12-month time period required by EPA. Thus, this alternative would not be feasible for Portland. Further analysis indicated that the expansion of vehicle inspection program boundaries and ECO programs would be much less cost-effective than boosting oxy-fuel, and would be time consuming and more controversial to develop, making it impossible to meet the Clean Air Act deadline. After consulting with local governments in Grants Pass and Klamath Falls, there appear to be no promising alternatives in those areas that would be both quick to implement and fully effective within the twelve-month time period specified by EPA.

2. Another rulemaking issue is whether a commitment should be made to pursue a subsequent SIP revision to the CO contingency plans to replace the oxy-fuel requirement if sufficient alternatives become available prior to nonattainment area redesignations. It is possible that control measures to address long-term ozone-related air pollution, such as strategies proposed for the Portland area by the State Task Force on Motor Vehicle Emission Reductions, may be implemented or become available in the next one to two years, well ahead of EPA's approval of any CO nonattainment area redesignation requests. Such control measures would be effective in reducing wintertime CO as well, and could be used to replace partially or completely oxy-fuel contingency measures. In addition, the oil industry has expressed interest in developing alternative CO contingency measures which meet EPA requirements. These measures, as well, could potentially substitute on an equivalent basis for the Department's original CO contingency plan proposal.

### **Summary of Significant Public Comment and Changes Proposed in Response**

This section summarizes the significant comments presented at the public hearing and the changes to the draft rules the Department is now proposing in response to this testimony. The complete response to comments is provided in Attachments E and F.

Consideration of Substitute or Alternative CO Contingency Plans

Throughout the rulemaking process and during the public comment period, the oil industry expressed concern that the Department did not sufficiently explore alternative CO contingency measures. Based on the coordination with affected local governments and the discussions with the oil industry, the proposal to raise the oxygen content in wintertime gasoline appears to be the most viable alternative for meeting EPA's time constraints for submittal of contingency plans and for achieving necessary CO emission reductions within a 12-month period. However, the Department acknowledges industry's concerns and has modified the CO contingency provision to allow for the submittal of alternatives which could substitute for the original proposal of raising the average oxygen content in gasoline from 2.7% to 2.9%. Such a substitute could not be implemented until approved by EPA as a SIP revision.

Creation of an Ethanol Mandate Which Negatively Impacts Market Competition

One of the key concerns raised during the public comment period was that boosting the oxygen content in gasoline could eliminate a fuel supplier's choice of oxygenates by mandating exclusive use of ethanol during the oxy-fuel season. The Department acknowledges that this is a potential problem and has modified the oxy-fuel rules to incorporate the Option #3 provisions to lessen this concern. As discussed earlier, the EPA has, in general, responded negatively to the Department's requests to consider other options to address the market concerns by allowing dual-blending of oxygenates and allowing MTBE to be supplied at a 2.9% oxygen content.

Reclassification of CO Nonattainment Areas a Priority

The oil industry expressed concern that CO contingency measures are unnecessary since air quality data shows that all areas were in attainment for CO prior to the winter of 1992 when oxy-fuel requirements were first implemented. During the September 10th meeting with WSPA, the Department clarified that nonattainment areas must continue to meet EPA's nonattainment classification requirements until EPA redesignates the areas to attainment. Additionally, the Department is committed to developing and submitting maintenance plans and redesignation requests expeditiously. The Portland CO maintenance plan and redesignation request is expected to be submitted to EPA in the fall of 1994.



**Summary of How the Proposed Rule Will Work and How it Will be Implemented**

1. If any of Oregon's four CO nonattainment areas fail to meet applicable standards by the December 31, 1995 Clean Air Act deadline, or in any subsequent year prior to redesignation to attainment, implementation of the contingency provision will be formally triggered by written notification to the Department from the EPA, or by written notification from the Department to affected fuel suppliers. EPA is legally required to make such notification within six months of the end of calendar year 1995. A letter of notification from EPA could be received as early as March 1996 which would be followed by publication in the Federal Register. By the end of February 1996, the Department should have a complete set of validated CO monitoring data available from the 1995 calendar year for each monitoring site. If violations of the CO standard occurred in any of the four nonattainment areas during 1995, the Department would notify the affected gasoline suppliers in order to give as much lead time as possible to implement the CO contingency plan for the 1996-97 CO season. Oxy-fuel suppliers will be provided at least eight months to implement CO contingency plans from the time notification is received from the Department or from EPA, whichever is sooner. The Department would expect to notify suppliers no later than March 1 in order to ensure that oxy-fuel is supplied for the entire winter CO season. If a standard violation occurs during 1994, the above implementation time frame could be accelerated by as much as two full years.

After the CO contingency plan is triggered and oxygenates are being supplied at maximum EPA approved levels, the Department will assess seasonal oxygenate mix reports to project whether an average control area oxygen content of 3.1% will be reached in subsequent control periods. If the Department's projection indicates that the oxygen content will be less than 3.1%, a 2.9% mandatory average oxygen content to be achieved by all Control Area Responsible Parties (CARs) and blender CARs, will be implemented for future control periods. If mandated, a 2.9% oxygen content level could be achieved by: a) using only ethanol as an oxygenate; or b) through an averaging program using MTBE or other oxygenates and ethanol. An averaging program would require that at least 25% of the total volume of fuel supplied to a control area be oxygenated with ethanol to meet an oxygen content of 3.5%. The remaining 75% of total volume could be oxygenated with MTBE or other oxygenates at a 2.7% level to yield an average oxygen content over the control period of 2.9%.

2. Subsequent to adoption of the CO contingency plan, other alternatives identified may be substituted for a boost in oxygen content if all applicable EPA requirements are satisfied. As stated previously, a substitute provision could not take effect until approved by EPA as a SIP revision.
3. Housekeeping amendments will not affect current implementation of the oxy-fuel rules.

### **Recommendation for Commission Action**

Based on the response to public comments and subsequent discussions with the affected industry and EPA, the Director recommends that the Commission adopt the amendments to the Motor Vehicle Fuel Specifications for Oxygenated Gasoline (OAR 340-22-440 through 340-22-660) shown in Attachment A. The proposed rule includes housekeeping changes to provide clarity for the regulated community on scope and applicability. The proposed rule also incorporates in detail the features of Option #3 (shown in Table 1 on page 6) to meet EPA's requirements on CO contingency measures for the Portland, Medford, Grants Pass and Klamath Falls CO nonattainment areas. The Director also recommends adoption of related changes to the Portland, Medford, and Grants Pass CO nonattainment plans as SIP revisions, with the following additional considerations:

1. CO maintenance plans and redesignations to attainment will be pursued as expeditiously as possible.
2. If equivalent alternative CO contingency measures are identified, they will be considered and submitted to EPA as a SIP revision.

### **Attachments**

- A. Rule (Amendments) Proposed for Adoption
- B. Supporting Procedural Documentation:
  1. Legal Notice of Hearing
  2. Public Notice of Hearing (Chance to Comment)
  3. Rulemaking Statements (Statement of Need)
  4. Fiscal and Economic Impact Statement
  5. Land Use Evaluation Statement
- C. Presiding Officer's Report on Public Hearing
- D. List of Written Comments Received
- E. Department's Evaluation of Public Comment

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- F. Detailed Changes to Original Rulemaking Proposal made in Response to Public Comment
- G. Advisory Committee Membership and Report
- H. Rule Implementation Plan
- I. (Other Attachments as appropriate)

**Reference Documents (available upon request)**

Written comments listed in Attachment D and other documents supporting the rule development process or proposal.

Approved:

Section:

John F. Kowalski

Division:

Jim Greenwood

Report Prepared By: Howard Harris

Phone: 229-6086

Date Prepared: October 8, 1993

**OREGON ADMINISTRATIVE RULES  
CHAPTER 340  
MOTOR VEHICLE FUEL SPECIFICATIONS FOR OXYGENATED GASOLINE**

**Policy**

**340-22-440** The Environmental Quality Commission finds and determines that control area responsible parties, distributors and retail outlets are "Indirect Sources" as defined in OAR 340-20-110 (14).

**Definitions**

**340-22-450** As used in OAR 340-22-460 through OAR 340-22-~~640~~660:

- (1) "Attest engagement" means a review of nonfinancial records by a CPA.
- (2) "Averaging period" means the period of time over which all gasoline sold or dispensed for use in a control area by any control area responsible party must comply with the average oxygen content standard.
- (3) "Blend" means regular, unleaded, supreme or other trade names for gasoline products containing differing levels of octane.
- (4) "Blender control area responsible party (Blender CAR)" means a person who owns oxygenated gasoline which is sold or dispensed from a control area oxygenate blending facility.
- (5) "Carrier" means any person who transports, stores, or causes the transportation or storage of gasoline at any point in the gasoline distribution network, without taking title to or otherwise having ownership of the gasoline and without altering the quality or quantity of the gasoline.
- (6) "Control area" means a geographic area listed in OAR 340-22-470 in which only gasoline that meets the requirements of OAR 340-22-460 through OAR 340-22-~~640~~660 may be sold or dispensed.
- (7) "Control area oxygenate blending facility" means any facility or truck at which oxygenate is added to gasoline that is intended for use in any control area, and at which the quality and quantity of gasoline is not otherwise altered, except through the addition of deposit-control additives.

- (8) "Control area responsible party (CAR)" means a person who owns gasoline and/or oxygenates that is sold or dispensed from a control area terminal.
- (9) "Control area terminal" means a terminal storage facility that is capable of receiving gasoline in bulk by pipeline or marine vessel, or at which gasoline is altered either in quantity or quality, excluding the addition of deposit control additives. Gasoline that is intended for use in any control area is sold or dispensed into trucks at these control area terminals.
- (10) "Control period" means the period from November 1 through February 29, during which oxygenated gasoline must be sold or dispensed within the control area.
- (11) "Department" means the Department of Environmental Quality.
- (12) "Distributor" means a person who transports or stores or causes the transportation or storage of gasoline at any point between a gasoline refinery or importer's facility and any retail outlet or wholesale purchaser-consumer's facility.
- (13) "EPA" means the United States Environmental Protection Agency.
- (14) "EPA substantially similar ruling" means a fuel or fuel additive for general use in light-duty vehicles manufactured after the model year 1974, that is substantially similar to a fuel or fuel additive used to certify a model year 1975 or newer vehicle or engine under 42 U.S.C. 7525 (Clean Air Act, section 206), as amended through November 15, 1990 and any amendments or modifications thereto, and as specified in EPA's Interpretative Ruling at 56 Federal Register 5352--5356, revised through February 11, 1991, and that the EPA has ruled meets the following criteria:
- (a) The fuel contains carbon, hydrogen, and any or all of the elements of oxygen, nitrogen, or sulfur exclusively, with the exception of trace levels of impurities which produce gaseous combustion products, in the form of some combination of
- (A) hydrocarbons;
  - (B) aliphatic ethers;
  - (C) aliphatic alcohols other than methanol;
  - (D) up to 0.3 percent methanol by volume;
  - (E) up to 2.75 percent methanol by volume with an equal amount of butanol, or high molecular weight alcohol; or
  - (F) a fuel additive at a concentration of no more than 0.25 percent by weight which contributes no more than 15 ppm sulfur by weight to the fuel.

- (b) The fuel contains no more than 2.0 percent oxygen by weight, except that fuels containing aliphatic ethers and/or alcohols (except methanol) must contain no more than 2.7 percent oxygen by weight.
  - (c) The fuel possesses, at the time of manufacture, the physical and chemical characteristics of an unleaded gasoline as specified by ASTM Standard D4814-88 for at least one of the Seasonal and Geographical Volatility Classes specified in the standard; and
  - (d) the fuel contains only
    - (A) carbon;
    - (B) hydrogen; and
    - (C) any or all of the following elements: oxygen, nitrogen and sulfur.
- (15) "EPA waiver" means any current motor fuel waivers granted by the U. S. Environmental Protection Agency under authority of 42 U.S.C. 745(f)(4)(Clean Air Act, section 211), as amended through November 15, 1990 and any amendments or modifications thereto.
- (16) "Gasoline" means any fuel sold for use in motor vehicles and motor vehicle engines and commonly or commercially known or sold as gasoline.
- (17) **"Motor Vehicle" means any self-propelled vehicle designed and used for transporting persons or property on a street or highway.**
- (18) "Nonoxygenated gasoline" means any gasoline which does not meet the definition of oxygenated gasoline.
- ~~{(18)}~~(19) "Oxygen content of gasoline blends" means the percentage of oxygen by weight contained in a gasoline blend, based upon its percentage oxygenate by volume, excluding denaturants and other non-oxygen-containing components. All measurements must be adjusted to 60 degrees Fahrenheit.
- ~~{(19)}~~(20) "Oxygenate" means any substance which, when added to gasoline, increases the amount of oxygen in that gasoline blend. Lawful use of any combination of these substances requires that they be "Substantially Similar" under section 211(f)(1) of the Clean Air Act (CAA), or be permitted under a waiver granted by the Administrator of the Environmental Protection Agency under the authority of section 211(f)(4) of the CAA.
- ~~{(20)}~~(21) "Oxygenate blender" means a person who owns, leases, operates, controls, or supervises a control area oxygenate blending facility.

~~{(21)}~~**(22)** "Oxygenated gasoline" means any gasoline which when supplied on a per gallon basis contains at least 2.7 percent oxygen by weight, **except where otherwise required by OAR 340-22-660**, or which when supplied using the averaging method contains at least 2.0 percent oxygen by weight, and has been included in the oxygenated gasoline program accounting by a control area responsible party and which is intended to be sold or dispensed for use in any control area during a control period.

**(23)** "Permitted Control area responsible parties" means any owner of gasoline being imported or sold at or from a terminal who obtains a terminal operator permit to market gasoline in a control area during the control period.

~~{(22)}~~**(24)** "Refiner" means a person who owns, leases, operates, controls, or supervises a refinery that produces gasoline for use in a control area.

~~{(23)}~~**(25)** "Refinery" means a plant at which gasoline is produced.

~~{(24)}~~**(26)** "Reseller" means a person who purchases gasoline and resells or transfers it to a retailer or wholesale purchaser-consumer.

~~{(25)}~~**(27)** "Retail outlet" means any establishment at which gasoline is sold or offered for sale to the ultimate consumer for use in motor vehicles.

~~{(26)}~~**(28)** "Retailer" means any person who owns, leases, operates, controls, or supervises a retail outlet.

~~{(27)}~~**(29)** "Substantially similar" means EPA substantially similar ruling.

~~{(28)}~~**(30)** "Terminal" means a facility capable of receiving gasoline by pipeline or marine vessel at which gasoline is sold, or dispensed into trucks for transportation to retail outlets or wholesale purchaser-consumer facilities.

~~{(29)}~~**(31)** "Wholesale purchaser-consumer" means any organization that is an ultimate consumer of gasoline and which purchases or obtains gasoline from a supplier for use in motor vehicles and receives delivery of that product into a storage tank of at least 550 gallon capacity substantially under the control of that organization.

## **Purpose and General Requirements**

### **340-22-460**

- (1) Pursuant to ORS 468A.420, OAR 340-22-450 through OAR 340-22-~~{640}~~**660** apply to:

- (a) a person who refines, distributes, blends, supplies, sells, offers for sale, or otherwise markets gasoline for use in motor vehicles~~fuel~~ and,
  - (b) Permitted Control area responsible parties who own gasoline being imported or being sold at or from terminals who market gasoline.
- (2) Except as provided in OAR 340-22-~~640~~650, the requirements of OAR 340-22-460 through OAR 340-22-~~640~~660 apply only from November 1 to February 29, and only within a control area listed in OAR 340-22-470.
  - (3) The labeling requirements of OAR 340-22-~~640~~650 apply only within a control area during the control period.

**NOTE: This applies only to the Department rules and a dispenser is still responsible for complying with the disclosure requirements of ORS 646.915.**

- (4) To reduce carbon monoxide air pollution from motor vehicles in a control area, OAR 340-22-460 through OAR 340-22-~~640~~660 requires:
  - (a) the ~~use in~~dispensing into gasoline powered motor vehicles of an oxygenated gasoline with an oxygen content that meets the requirements of OAR 340-22-~~480~~500, ~~and~~ OAR 340-22-510, and OAR 340-22-520, as applicable;
  - (b) that a dispenser where an oxygenated gasoline is dispensed be labeled as required by OAR 340-22-640;
  - (c) that oxygenated gasoline be blended as required by OAR 340-22-~~520~~530; and
  - (d) a person who refines, distributes, blends, supplies, or sells an oxygenated gasoline to meet the recordkeeping and reporting requirements of OAR 340-22-460 through OAR 340-22-~~640~~660.
- (5) Nothing in OAR 340-22-460 through OAR 340-22-~~640~~660 precludes a person from using, refining, distributing, blending, supplying, selling, or otherwise marketing fuel that meets the requirements of OAR 340-22-460 through OAR 340-22-~~640~~660:
  - (a) between March 1 and October 31 in a control area; or
  - (b) at any time in any other location statewide.
- (6) Nothing in OAR 340-22-460 through OAR 340-22-~~640~~660 precludes a person from using, refining, distributing, blending, supplying, selling, or otherwise marketing nonoxygenated fuel:



(a) ~~{b}~~ Between November 1 and February 29 outside of control areas

(b) At dispensing facilities where motor vehicles are not fueled.

(7) Except as provided in OAR 340-22-570, the following dispensing sites are exempt from OAR 340-22-460 through OAR 340-22-660 and may dispense nonoxygenated gasoline in control areas during control periods if fuel will not be used in motor vehicles, including but not limited to: airports, marinas, saw shops, farms dispensing to farm equipment not used as a motor vehicle, and other facilities not dispensing fuel into motor vehicles.

## Control Areas

340-22-470 The following are considered control areas:

- (a) Clackamas, Multnomah, Washington and Yamhill counties;
- (b) Jackson county;
- (c) As used in this subsection, the Grants Pass control area means the area of the state beginning at the northeast corner of section 35, T35S, R5W; thence south to the southeast corner of section 11, T37S, R5W; thence west to the southwest corner of section 9, T37S, R6W; thence north to the northwest corner of section 33, T35S, R6W; thence east to the point of beginning.
- (d) As used in this subsection, the Klamath Falls control area means the area of the state beginning at the northeast corner of section 8, T38S, R10E; thence south to the southeast corner of section 5, T40S, R10E; thence west to the southwest corner of section 3, T40S, R8E; thence north to the northwest corner of section 10, T38S, R8E; thence east to the point of beginning.

## ~~Average Oxygen Content Standard~~

### ~~340-22-480~~

- ~~(1) All gasoline sold or dispensed for use during the control period described in OAR 340-22-460(2), for use in each control area described in OAR 340-22-470, by each CAR or blender CAR, must be blended for each averaging period to contain an average oxygen content of not less than 2.7 percent by weight. Oxygen content calculations must be performed as required in OAR 340-22-490.~~
- ~~(2) The averaging period for all gasoline sold or dispensed in a control area is the four-month control period established in OAR 340-22-460(b).~~

Stat. Auth.: ~~ORS Ch. 468A~~

Hist.: ~~AQ 21 1992, f. 10 30 92, ef. 11 1 92; AQ 1 1993, f. & ef. 3 9 93~~

~~[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]~~

[NOTE: This rule has been moved to OAR 340-22-510 where it has been revised]

### ~~Sampling~~ and Testing ~~and~~for Oxygen Content

#### 340-22-~~490~~480

- (1) To determine compliance with the requirements of OAR 340-22-460 through OAR 340-22-~~640~~660, the oxygen content of gasoline must be determined by:
  - (a) sampling, using the sampling methods specified in 40 C.F.R. 80, Appendix D, as amended through July 1, 1991, the provisions of which are incorporated by reference in this rule, to obtain a representative sample of the gasoline to be tested;
  - (b) testing, using the test method specified in ASTM 4815-89 or other test methods determined by the Department and EPA as being equivalent, to determine the mass concentration of each oxygenate in the gasoline sampled; and
  - (c) oxygen content calculations that are made as follows: calculate the oxygen content of the gasoline sampled by multiplying the volume concentration of each oxygenate in the gasoline sampled by the oxygen molecular weight contribution of the oxygenate set forth in section (2) of this rule, with volume measurements adjusted to 60 degrees Fahrenheit.
- (2) The oxygen molecular weight contributions of an oxygenate approved for use under OAR 340-22-460 through OAR 340-22-~~640~~660 are set out in Table A of this rule.

TABLE A

#### COMPARISON OF SPECIFIC GRAVITIES AND OXYGEN MASS FRACTIONS OF PURE OXYGENATES

	Specific Gravity 60/60 F	Oxygen Mass Fraction
Methyl Alcohol	0.7963	0.4993
Ethyl Alcohol	0.7939	0.3473
n-Propyl Alcohol	0.8080	0.2662
Isopropyl Alcohol	0.7899	0.2662
n-Butyl Alcohol	0.8137	0.2158

iso-Butyl Alcohol	0.8058	0.2158
sec-Butyl Alcohol	0.8114	0.2158
tertiary-Butyl Alcohol	0.7922	0.2158
Methyl tertiary-Butyl Ether	0.7460	0.1815
Ethyl tertiary-Butyl Ether	0.7452	0.1566
Tertiary Amyl Methyl Ether	0.7752	0.1566

~~[Alternative]~~ **Compliance Options**

**340-22-~~[500]~~490**

- (1) Each CAR or blender CAR must comply with ~~[the]~~applicable oxygen content standards set out in OAR 340-22-~~[480]~~500(1), OAR 340-22-510(1), and OAR 340-22-530 by means of either the per gallon compliance ~~[method]~~option established in ~~[section (2)]~~ OAR 340-22-500 or ~~[(3) of this rule]~~ the averaging method compliance option established in OAR 340-22-510.

**Per Gallon Oxygen Content Standard**

**340-22-500**

- (1) All gasoline sold or dispensed for use during the control period described in OAR 340-22-460(2), for use in each control area described in OAR 340-22-470, by each CAR or blender CAR using the Per Gallon Oxygen Content Standard Compliance Option, must be blended to contain not less than 2.7 percent oxygen by weight, except where otherwise required by OAR 340-22-660. Oxygen content calculations must be performed as required in OAR 340-22-480.

~~[(3)]~~<sup>1</sup> Compliance calculation on a per gallon basis:

- (a) Each gallon of gasoline sold or dispensed by a CAR or blender CAR for use within each control area during the ~~[averaging]~~control period ~~[defined in OAR 340-22-480]~~ shall have an oxygen content of at least 2.7 percent by weight, except where otherwise required by OAR 340-22-660.

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<sup>1</sup> Moved from original Alternative Compliance Options Rule (formerly OAR 340-22-500(3)). The primary requirements under this rule are now found in OAR 340-22-500 and OAR 340-22-510.

- (b) In addition, the CAR or blender CAR is prohibited from selling or purchasing oxygen credits based on gasoline for which compliance is calculated under this alternative per~~g~~gallon method.

**Average Oxygen Content Standard**  
**340-22-~~480~~510<sup>2</sup>**

- (1) All gasoline sold or dispensed for use during the control period described in OAR 340-22-460(2), for use in each control area described in OAR 340-22-470, by each CAR or blender CAR using the Average Oxygen Content Standard Compliance Option, must be blended for each averaging period to contain an average oxygen content of not less than 2.7 percent by weight, except where otherwise required by OAR 340-22-660. Oxygen content calculations must be performed as required in OAR 340-22-~~490~~480.
- (2) The averaging period for all gasoline sold or dispensed in a control area is the four-month control period established in OAR 340-22-460(~~b~~2).

(~~2~~3)<sup>3</sup>Compliance calculation on average basis:

- (a) to determine compliance with the standards in ~~{OAR 340-22-480}~~section (1) of this rule, the CAR or blender CAR shall, for each averaging period and for each control area:
- (A) calculate the total volume of gasoline sold or dispensed for use in the control area which is the sum of:
- (i) the volume of each separate batch or truck load of oxygenated gasoline that is sold or dispensed;
  - (ii) minus the volume of each separate batch or truck load of oxygenated gasoline that is sold or dispensed in a different control area;
  - (iii) minus the volume of each separate batch or truck load of oxygenated gasoline that is sold or dispensed in any non-control area;

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<sup>2</sup> Moved from Average Oxygen Content Standard (formerly OAR 340-22-480)

<sup>3</sup> Moved from original Alternative Compliance Options Rule (formerly OAR 340-22-500(2)).

- (B) calculate the required total oxygen credit units. Multiply the total volume in gallons of oxygenated gasoline sold or dispensed into the control area (as determined by Section ~~{213}~~(a)(A) above) by 2.7 percent, **except where otherwise required by OAR 340-22-660**;
- (C) calculate the actual total oxygen units generated. The actual total oxygen credit units generated is the sum of the volume of each batch or truck load of oxygenated gasoline that was sold or dispensed in the control area (as determined by Section ~~{213}~~(a)(A) above) multiplied by the actual oxygen content by weight associated with each batch or truck load.
- (D) calculate the adjusted actual total oxygen credit units. The adjusted actual total oxygen content credit units is the sum of the actual total oxygen credit units generated (as determined in Section ~~{213}~~(a)(C) above);
- (i) plus the total oxygen credit units purchased or acquired through trade; and
  - (ii) minus the total oxygen credit units sold or given away through trade.
- (E) compare the adjusted actual total oxygen credit units with the required total oxygen credit units. If the adjusted actual total content oxygen credit units is greater than or equal to the required total oxygen credit units, then the standard in ~~{OAR 340-22-480}~~ **section (1) of this rule** is met. If the adjusted actual total oxygen credit units is less than the required total oxygen credit units the purchase of oxygen credit units is required in order to achieve compliance.
- (F) in transferring oxygen credit units, the transferor shall provide the transferee with the volume and oxygen content by weight of the gasoline associated with the credits.
- (b) To determine the oxygen credit units associated with each batch or truck load of oxygenated gasoline sold or dispensed into the control area, use the running weighted oxygen content (RWOC) of the tank from which the batch or truck load was received at the time the batch or truck load was received. In the case of batches or truck loads of gasoline to which oxygenate is added outside of the terminal storage tank from which it was received, use the weighted average of the RWOC and the oxygen content added as a result of the volume of the additional oxygenate added.

- (c) Running weighted oxygen content (RWOC). The RWOC accounts for the volume and oxygen content of all gasoline which enters or leaves the terminal storage tank, and all oxygenates which are added to the tank. The RWOC must be calculated each time gasoline enters or leaves the tank or whenever oxygenates are added to the tank. The RWOC is calculated weighing the following:
- (A) the volume and oxygen content of the gasoline in the storage tank at the beginning of the averaging period;
  - (B) the volume and oxygen content by weight of gasoline entering the storage tank;
  - (C) the volume and oxygen content by weight of gasoline leaving the storage tank; and
  - (D) the volume, type and oxygen content by weight of the oxygenate added to the storage tank.
- (d) Credit transfers. Credit transfer may be used in the compliance calculations in OAR 340-22-~~500~~510(~~2~~3)(a), provided that:
- (A) the credits are generated in the same control area in which they are used; no credits may be transferred between control areas;
  - (B) the credits are generated in the same averaging period as they are used;
  - (C) the ownership of credits is transferred only between properly registered CARs or blender CARs;
  - (D) the credit transfer agreement is made no later than 30 days after the final day of the averaging period in which the credits are generated; and
  - (E) the credits are properly created.
- (e) Improperly created credits:
- (A) No party may transfer any credits to the extent that such a transfer would result in the transferor having a negative credit balance at the conclusion of the averaging period for which the credits were transferred. Any credits transferred in violation of this subsection are improperly created credits.

- (B) In the case of credits which were improperly created, the following paragraphs apply:
- (i) improperly created credits may not be used, regardless of a credit transferee's good faith belief that it was receiving valid credits;
  - (ii) The transfer of credits in violation of paragraph (A) of this subsection constitutes a violation of the requirements of ~~{OAR 340-22-480}~~section (1) of this rule; and
  - (iii) where any credits are transferred in violation of paragraph (A) of this subsection, the transferor's properly-created credits will be applied first to any credit transfers before the transferor may apply any credits to achieve its own compliance.
  - (iv) Where any credits are transferred in violation of paragraph (A) of this subsection, the transferor shall be held legally and financially liable for any penalties or damages incurred by the transferee as a result of the invalid transaction.

## Minimum Oxygen Content

### 340-22-~~{510}~~520

- (1) Any gasoline sold or dispensed by a CAR or a blender CAR for use within a control area during the control period, must contain not less than the minimum percent oxygen by weight allowed in the Oxygen Content Standard listed below, except where otherwise required by OAR 340-22-660:
- (a) Minimum oxygen content when using the Per Gallon Oxygen Content Standard Compliance Option is 2.7 percent oxygen by weight, unless it is sold or dispensed to another registered CAR or blender CAR. This requirement begins no less than five working days before the control period and applies until the end of that period.
  - (b) Minimum oxygen content when using the Average Oxygen Content Standard Compliance Option is 2.0 percent oxygen by weight, unless it is sold or dispensed to another registered CAR or blender CAR. This requirement begins at least five working days before the control period and applies until the end of that period.

- (2) The requirements of this rule apply to all persons downstream of the CAR. Any gasoline offered for sale, sold or dispensed to an ultimate consumer within a control area must contain not less than:
- (a) 2.7 percent oxygen by weight when supplied by a CAR or blender CAR who uses the Per Gallon Oxygen Content Standard Compliance Option, except where otherwise required by OAR 340-22-660. This requirement applies during the entire control period.
  - (b) 2.0 percent oxygen by weight when supplied by a CAR or blender CAR who uses the Average Oxygen Content Standard Compliance Option. This requirement applies during the entire control period.
- (3) A refiner or importer shall determine the oxygen content ~~of each gallon~~ of gasoline produced by use of an applicable method described in OAR 340-22-~~500~~490. This determination must include the percent oxygenate by weight, the type of oxygenate and percent by volume.

### Oxygenated Gasoline Blending

#### 340-22-~~520~~530

- (1) In addition to the other applicable requirements of OAR 340-22-460 through OAR 340-22-~~640~~660, no person may refine, distribute, blend, supply, sell, offer for sale or otherwise market any unleaded oxygenated gasoline for use in a motor vehicle unless that product
- (a) has received a waiver from the U.S. Environmental Protection Agency (EPA) under 42 U.S.C. 7545(f)(4), as amended through November 15, 1990 and any amendments or modifications thereto; or
  - (b) meets EPA's "substantially similar" ruling for a fuel or fuel additive used to certify a model year 1975 or newer vehicle or engine under 42 U.S.C. 7525 (Clean Air Act), as amended through November 15, 1990 and any amendments or modifications thereto.
- (2) Only an oxygenate that is found to be acceptable under EPA's "substantially similar" ruling may be used in gasoline containing lead to meet the oxygenate requirements of OAR 340-22-460 through OAR 340-22-~~640~~660.
- (3) The requirements of this rule do not affect the blending into leaded gasoline of a compound that does not require an EPA waiver or an EPA "substantially similar" ruling.



**(4)** Only those oxygenates and concentrations listed below and any gasoline designated by EPA as substantially similar are allowed:

~~(A)~~**a** Blends of up to 10% by volume anhydrous ethanol (200 proof) (commonly referred to as the "gasohol" waiver).

~~(B)~~**b** Blends of methanol and gasoline grade tertiary butyl alcohol (GTBA) such that the total oxygen content does not exceed 3.5% by weight and the ratio of methanol to GTBA is less than or equal to one. It is also specified that this blended fuel must meet ASTM volatility specifications (commonly referred to as the "ARCO" waiver).

~~(C)~~**c** Blends of up to 5.0% by volume methanol with a minimum of 2.5% by volume cosolvent alcohols having a carbon number of 4 or less (i.e. ethanol, propanol, butanol and/or GTBA). The total oxygen must not exceed 3.7% by weight, and the blend must meet ASTM volatility specifications as well as phase separation and alcohol purity and inhibitor specifications (commonly referred to as the "DuPont" waiver).

~~(D)~~**d** Blends up to 5.0% by volume methanol with a minimum of 2.5% by volume cosolvent alcohols having a carbon number of 8 or less. The total oxygen must not exceed 3.7% by weight and the blend must meet ASTM volatility specifications as well as phase separation and alcohol purity and inhibitor specifications (commonly referred to as the "Octamix" waiver).

~~(E)~~**e** Blends up to 15.0% by volume methyl tertiary butyl ether (MTBE) which must meet the ASTM D4614 specifications. Blenders must take precautions that the blends are not used as base gasolines for other oxygenated blends (commonly referred to as the "Sun" waiver).

~~(F)~~**f** Blends of aliphatic alcohols other than methanol and aliphatic ethers, provided the oxygen content does not exceed 2.7% by weight.

~~(G)~~**g** Blends of methanol up to 0.3 percent by volume exclusive of other oxygenates.

~~(H)~~**h** Blends up to 2.75% by volume methanol with an equal volume of butanol or alcohols of a higher molecular weight.

## Registration

340-22-~~530~~540

- (1) At least 30 days before the control period in which a person meets the definition of CAR or blender CAR, that person shall petition for registration as a CAR or blender CAR. A person may petition for registration as a CAR or blender CAR after the beginning of the control period but should also do so at least 30 days before conducting activities as a CAR or blender CAR. A petition for registration must be on forms approved by, and available from the Department, and must include
  - (a) the name and business address of the control area responsible party;
  - (b) the address and physical location of each of the control area terminals from which the control area responsible party operates;
  - (c) the address and physical location of each control area oxygenate blender facility which is owned, leased, operated, controlled or supervised by a blender CAR; and
  - (d) the address and physical location where documents required to be retained by this rule will be kept by the control area responsible party.
- (2) Within 30 days after any occasion when the registration information previously supplied by a control area responsible party becomes incomplete or inaccurate, the CAR or blender CAR shall submit updated registration information to the Department.
- (3) The Department will issue each CAR or blender CAR a unique identification number within 30 days after submission of a registration application to the Department. No person may participate in the averaging program under OAR 340-22-~~480~~**510** as a CAR or blender CAR until the Department has issued notice that registration as a CAR or blender CAR has occurred, and a unique CAR identification number. Registration is valid for the time period specified by the Department.

### **CAR, Distributor and Retail Outlet Operating Permits**

**340-22-~~540~~**550**** Each CAR, distributor and retail outlet supplying gasoline to a control area during a control period shall apply for and receive a permit as specified by OAR 340-20-136.

### **Recordkeeping**

**340-22-~~550~~**560****

- (1) All persons in the gasoline distribution network shall maintain records containing the applicable compliance information described in this rule. The records must be kept by the regulated persons for at least two years.
- (2) Refiners and importers shall, for each separate quantity of gasoline produced or imported for use in a control area during the control period, maintain records containing:
  - (a) results of any tests needed to determine the types of oxygenates and percentage by volume;
    - (A) oxygenate type;
    - (B) oxygenate content by volume;
    - (C) oxygen content by weight;
    - (D) total volume; and
    - (E) name and address of the party to whom each separate quantity of gasoline was sold or transferred.
- (3) A person who owns, leases, operates or controls a gasoline terminal that serves a control area shall maintain records containing:
  - (a) the name and address of the owner of each batch of gasoline handled during the control period;
  - (b) the volume of each batch or truck load of gasoline going into or out of the terminal;
  - (c) the RWOC of all batches or truck loads of gasoline leaving the terminal;
  - (d) the type of oxygenate, purity and percentage by volume if available;
  - (e) the oxygen content by weight of all batches or truck loads received at the terminal;
  - (f) information of each tank truck sale or batch of gasoline, as to whether it was designated for use within a control area or not;
  - (g) the name and address of the person to whom the gasoline was sold or transferred and the date of the sale or transfer; and

- (h) results of the tests for oxygenates, if performed, of each sale or transfer and who performed the tests.
- (4) CARs and blender CARs must maintain records containing the information listed in section (3) of this rule, plus the following information:
- (a) CAR or blender CAR identification number~~[-:]~~;
  - (b) records supporting and demonstrating compliance with the Per Gallon Oxygen Content Standard listed in OAR 340-22-500; or
  - (c) records supporting and demonstrating compliance with the A[~~a~~]verage[~~ing~~] Oxygen Content S[~~s~~]tandard listed in OAR 340-22-~~[480]~~510~~[-:]~~
    - (A) for any credits bought, sold, traded or transferred, the date of each transaction, the name, address and CAR or blender CAR number of the CAR or blender CAR involved in each transaction, and the amount of credit units (oxygen content and volume of gasoline) transferred; credit units transferred must be accompanied by a demonstration of how those credits were calculated, including adequate documentation that both parties have agreed to all credit transactions;
    - (B) the name and address of the auditor, and the results of the attest engagement conducted under OAR 340-22-~~[630]~~640;
    - (C) the name and address of the person from whom each shipment of gasoline was received, and the date when it was received;
    - (D) data on each shipment of gasoline received, including:
      - (i) the volume of each shipment;
      - (ii) the type of oxygenate, purity and percentage by volume; and
      - (iii) oxygen content by weight;
    - (E) the volume of each receipt of bulk oxygenates;
    - (F) the name and address of the persons from whom bulk oxygenates was received;
    - (G) the date and destination of each sale of gasoline, whether it was intended for use within a control area or not;

- (H) data on each shipment of gasoline sold or dispensed including:
    - (i) the volume of each shipment;
    - (ii) the type of oxygenate, purity and percentage by volume; and
    - (iii) oxygen content by weight;
  - (I) documentation of the results of all required tests done regarding the oxygen content of the gasoline; and
  - (J) the names, addresses and CAR or blender CAR identification numbers of the persons to whom any gasoline was sold or dispensed, and the dates of each transaction.
- (5) Retailers and wholesale purchaser-consumers within a control area shall maintain the following records **which shall be available for Department inspection upon request:**
- (a) the names, addresses and CAR or blender CAR identification number of each person from whom a shipment of gasoline was purchased or received, and the date when each shipment was received; and
  - (b) data on each shipment bought, sold or transported including
    - (A) the volume of each shipment;
    - (B) the type of oxygenate, purity and percentage by volume;
    - (C) oxygen content by weight~~[-and]~~

## Reporting

### 340-22-~~560~~570

- (1) Each CAR or blender CAR shall submit a report for each control period defined in OAR 340-22-~~480~~460(2), reflecting the compliance information detailed in OAR 340-22-500 or OAR 340-22-510, as applicable. Reports are due to the Department on the 30th of the month following the close of the control period for which the information is required. Reports must be filed on forms provided by the Department.
- (2) If the CO Contingency Provision, as specified in OAR 340-22-660, is triggered, each CAR or blender CAR shall submit the information described in section (1) of this rule after the first half of the control period and at the end of the control period. Reports are due to the Department on the 30th day of the month following the end of each two month segment of the control period.
- (~~2~~3) Each time that physical custody or title of gasoline destined for a control area is transferred, except when gasoline is sold or dispensed for use in motor vehicles at a retail outlet or wholesale purchaser-consumer facility, the transferor shall provide to the transferee, in addition to, or as part of, normal bills of lading or invoices, a transfer document containing information on the shipment. The transfer document must accompany every shipment of gasoline to a control area after it has been dispensed by a terminal, or the information must be included in the normal paperwork that accompanies each shipment of gasoline. The information must legibly and conspicuously contain the following information:
  - (a) the date of the transfer;
  - (b) the name, address and CAR or blender CAR identification number, if applicable of the transferor;
  - (c) the name, address and CAR or blender CAR identification number, if applicable, of the transferee;
  - (d) the volume of gasoline being transferred;
  - (e) the proper identification of the gasoline as non-oxygenated or oxygenated;
  - (f) the location of the gasoline at the time of the transfer;
  - (g) the type of oxygenate and purity;
  - (h) the percentage by volume, to the nearest 0.1 percent, of oxygenate in the fuel; and

## Prohibited Activities

### 340-22-~~570~~580

- (1) During the control period, no refiner, importer, oxygenate blender, carrier, distributor or reseller may manufacturer, sell, offer for sale, dispense, supply, offer for supply, store, transport or cause the transportation of:
  - (a) gasoline that contains less than 2.0 percent oxygen by weight, for use during the control period, in a control area; or
  - (b) gasoline represented as oxygenated which has an oxygen content that is improperly stated in the documents that accompany the gasoline.
- (2) No retailer or wholesale purchaser-consumer may dispense, offer for sale, sell, or store, for use during the control period, gasoline that contains less than 2.7~~0~~ percent oxygen by weight in a control area when supplied by a CAR using the Per Gallon Oxygen Content Standard or less than 2.0 percent oxygen by weight in a control area when supplied by a CAR using the Average Oxygen Content Standard.
- (3) No person may operate as, or claim to be a CAR or blender CAR unless that person is registered by the Department under OAR 340-22-~~530~~540. No CAR or blender CAR may offer for sale, store, sell or dispense gasoline to any person who is not registered as a CAR for use in a control area, unless:
  - (a) the ~~average~~-oxygen content of the gasoline during the control~~averaging~~ period or averaging period meets the standard set in OAR 340-22-~~480~~500, OAR 340-22-510, and OAR 340-22-520 as applicable; and
  - (b) the gasoline contains at least:
    - (A) 2.7 percent oxygen by weight when the Per Gallon Oxygen Content Standard is used, except as required by OAR 340-22-660.
    - (B) 2.0 percent oxygen by weight ~~on a per-gallon basis~~ when the Average Oxygen Content Standard is used.

- (4) For a terminal that sells or dispenses gasoline intended for use in a control area during the control period, the terminal owner or operator may not accept gasoline into the terminal unless
  - (a) transfer documentation accompanies it containing information required by OAR 340-22-~~560~~570(2); and
  - (b) the terminal owner or operator conducts a quality assurance program to verify the accuracy of the information referred to in subsection (a) of this section.
- (5) No person may sell, store or dispense nonoxygenated gasoline in any control area during the control period unless
  - (a) the nonoxygenated gasoline is segregated from oxygenated gasoline;
  - (b) clearly marked documents accompany the nonoxygenated gasoline marking it as "nonoxygenated gasoline, not for sale to an ultimate consumer in a control area;" and
  - (c) the nonoxygenated gasoline is in fact not sold or dispensed to ultimate consumers during the control period, in the control area.
- (6) No person subject to the requirements of OAR 340-22-460 through OAR 340-22-~~640~~660 may fail to comply with the requirements of OAR 340-22-460 through OAR 340-22-~~640~~660.
- (7) No person may sell, store, dispense, or transfer oxygenated gasoline, except for use by the ultimate consumer at a retail outlet or wholesale purchaser-consumer facility, without transfer documents that accurately contain the information required by OAR 340-22-~~560~~570(2).
- (8) Any CAR, distributor or retail outlet that does not have a valid terminal permit may not market gasoline for use in a control area during the control period unless a prior owner of the gasoline has a valid terminal permit as required by OAR 340-20-136.**

### Inspection and Sampling

**340-22-~~580~~590** With consent of the owner or operator, the Department will, at any reasonable time, enter the premises of any person subject to the requirements of OAR 340-22-460 through OAR 340-22-~~640~~660 to determine compliance. The Department will inspect all relevant records and equipment, and will, in its discretion, purchase gasoline samples for testing by the Department.



## **Liability For Violation Of A Prohibited Activity**

### **340-22-~~590~~600**

- (1) Subject to OAR 340-22-~~600~~610, if gasoline contained in a storage tank at a facility owned, leased, operated, controlled or supervised by a retailer, wholesale purchaser-consumer, distributor, reseller, carrier, refiner, importer or oxygenate blender is found to be in violation of OAR 340-22-~~570~~580(1)(a) or (2), the following persons will be considered in violation:
  - (a) the retailer, wholesale purchaser-consumer, distributor, reseller, carrier, refiner, importer or oxygenate blender who owns, leases, operates; controls or supervises the facility where the violation is found; and
  - (b) each oxygenate blender, distributor, reseller and carrier who, downstream of the control area terminal, sold, offered for sale, dispensed, supplied, offered for supply, stored, transported or caused the transportation of gasoline that is in the storage tank containing gasoline found to be in violation.
- (2) Subject to OAR 340-22-~~600~~610, if gasoline contained in a storage tank at a facility owned, leased, operated, controlled or supervised by a retailer, wholesale purchaser-consumer, distributor, reseller, carrier, refiner, importer or oxygenate blender is found to be in violation of OAR 340-22-~~570~~580(1)(b) or (2), the following persons will be considered in violation:
  - (a) the retailer, wholesale purchaser-consumer, distributor, reseller, carrier, refiner, importer or oxygenate blender who owns, leases, operates, controls or supervises the facility where the violation is found; and
  - (b) each refiner, importer, oxygenate blender, distributor, reseller and carrier who manufactured, imported, sold, offered for sale, dispensed, supplied, offered for supply, stored, transported or caused the transportation of gasoline that is in the storage tank containing gasoline found to be in violation.

## **Defenses For Prohibited Activities**

### **340-22-~~600~~610**

- (1) A refiner, importer, oxygenate blender, distributor, reseller or carrier is considered to be in violation of OAR 340-22-~~570~~580(1) unless that person demonstrates that
  - (a) the violation was not caused by the regulated person or that person's employee or agent;

- (b) the person possesses documents that should accompany the gasoline, and that contain the information required by OAR 340-22-~~560~~570;
  - (c) the person conducts a quality assurance sampling and testing program as described in OAR 340-22-~~620~~630; and
- (2) A refiner, importer, oxygenate blender, distributor, reseller or carrier is considered to be in violation of OAR 340-22-~~570~~580(5) unless that person demonstrates that:
- (a) the product is clearly labeled as "blendstock/export/storage" and the evidence supports this classifications;
  - (b) the accompanying documents clearly state that the product does not comply with the oxygenated gasoline requirements;
  - (c) some aspect of the product's quality supports the party's claim that the product was intended to be further blended before being sold, supplied, etc. as a finished product;
  - (d) the seller, supplier or transporter of the product has obtained a written certification or notice on shipping documents from the buyer/recipient of the product that the buyer/recipient understands that the product is not intended for sale or distribution as finished gasoline in a control area or until
    - (A) it is blended to meet the oxygenated gasoline requirements of OAR 340-22-460 through OAR 340-22-~~640~~660 or
    - (B) the buyer/recipient receives equivalent certification from a subsequent buyer or obtains a written certification that the gasoline will not be sold or dispensed for use within a control area; and
  - (e) the party has no knowledge or reason to believe that the product will not be further blended to comply with the standards of OAR 340-22-~~480~~500 or OAR 340-22-510, and OAR 340-22-520 before being sold, supplied or transported as finished product, or that it would be sold or dispensed without further blending within a control area.
- (3) A retailer or wholesale purchaser-consumer is considered to be in violation of OAR 340-22-~~570~~580(2) unless that person demonstrates that
- (a) the violation was not caused by the regulated person or that person's employee or agent;

- (b) the person possesses documents that should accompany the gasoline, and that contain the information required by OAR 340-22-~~560~~570.
- (4) For purposes of this rule, the term "was caused" means that the person must demonstrate by a preponderance of the evidence through reasonably specific showings, by direct or circumstantial evidence, that the violation was caused or must have been caused by another person.

### **Inability to Produce Conforming Gasoline Due to Extraordinary Circumstances**

#### **340-22-~~610~~620**

- (1) The Department will allow a person to distribute fuel which does not meet the oxygenated gasoline requirements of OAR 340-22-460 through OAR 340-22-~~640~~660 in appropriate extreme and unusual circumstances which are clearly outside the control of the blender CAR and which could not have been avoided by the exercise of prudence, diligence and due care if:
  - (a) it is in the public interest to do so because distribution of the nonconforming fuel is necessary to meet projected shortfalls which cannot otherwise be compensated for;
  - (b) the blender CAR exercised prudent planning and was not able to avoid the violation and has taken all reasonable steps to minimize the extent of the nonconformity;
  - (c) the blender CAR can show how the requirements for oxygenated gasoline will be expeditiously achieved; and
  - (d) the blender CAR agrees to make up the air quality detriment associated with the nonconforming gasoline, where practicable.

### **Quality Assurance Program**

**340-22-~~620~~630** To demonstrate an acceptable quality assurance program under this rule, a person shall conduct periodic sampling and testing to determine if the oxygenated gasoline has oxygen content that is consistent with the product transfer documentation.

### **Attest Engagements Guidelines When Prohibited Activities Alleged**

#### **340-22-~~630~~640**

- (1) The Department will not require a CAR or blender CAR to submit attest engagement reports except as an optional defense for any alleged violations of OAR 340-22-460 through OAR 340-22-~~640~~660.
- (2) The attest engagement shall consist of performing the agreed-upon procedures set forth in the guidelines in accordance with the Association of Independent Certified Public Accountants' (AICPA's) statements on standards for Attestation Engagements and using statistical sample design parameters provided by EPA.
- (3) In performing the attest engagement, the CPA shall determine the sample size for each population according to parameters set out in Table A of this rule.

TABLE A

<u>Number in Population (N)</u>	<u>Sample Size</u>
66 or larger	59
41 - 65	41
26 - 40	31
0 - 25	N or 24, whichever is smaller

- (4) The number of populations from which samples should be drawn will vary depending on the circumstances. Sample items should be selected in such a way that the sample can be expected to be representative of the population.
- (5) If the CPA agrees to use some other form of sample selection and some other method to determine the sample size, that agreement should be summarized in the CPA's report.
- (6) The attest engagement shall be conducted by an independent Certified Public Accountant (CPA).
- (7) The CPA is required to comply with the general code of conduct and ethics as prescribed by the State of Oregon and by the AICPA.
- (8) The attest engagement shall include the following agreed-upon procedures, as appropriate, for the CAR's standardized reporting form(s):
  - (a) Read the report completed by management and filed with the Department.
  - (b) Obtain from the CAR an inventory reconciliation summarizing receipts and deliveries of all gasoline, gasoline blendstocks, and oxygenates for CARs serving a control area.

- (A) Test mathematical accuracy of inventory reconciliation.
  - (B) Agree beginning and ending inventory amounts to company's perpetual inventory records.
  - (C) Agree deliveries into the control area to Department report, if applicable.
- (c) Obtain listing of all gasoline, gasoline blendstocks, and oxygenate receipts during the period.
- (A) Test mathematical accuracy of listing.
  - (B) Agree amounts to inventory reconciliation.
  - (C) Select a representative sample of individual receipts of gasoline, gasoline blendstocks, and oxygenates and trace details back to source documents.
- (d) Obtain listing of all gasoline, gasoline blendstocks, and oxygenates sold or dispensed during the period.
- (A) Test mathematical accuracy of listing.
  - (B) Agree amounts to inventory reconciliation report.
  - (C) Select a representative sample of individual batches sold or dispensed both into and outside the control area.
    - (i) Agree volumes for the sample items to original bill of lading or other source documents.
    - (ii) For sales or deliveries into the control area, determine that oxygenate content is at least two percent by examining bills of lading.
- (e) Using the volume of oxygenated gasoline sold or dispensed into the control area from the inventory reconciliation report, recalculate the number of oxygen content units required by multiplying by 2.7%, except where otherwise specified in OAR 340-22-660, and agree to Department report.

- (f) Recalculate the actual total oxygen credit units generated by adding the oxygen content of each batch or truck load of oxygenated gasoline that was sold or dispensed in the control area as determined in subsection (e) above multiplied by the actual oxygen content by weight associated with each batch or truck load.
- (g) Recalculate the adjusted actual total oxygen credit units as follows:
  - (A) The actual total oxygen credit units generated from subsection (f);
  - (B) plus the total oxygen credit units purchased or acquired through trade; and
  - (C) minus the total oxygen credit units sold or given away through trade.
- (h) The following steps apply to the testing of the actual total oxygen content from subsection (f) and are applicable based on method of blending:
  - (A) For CARs using rack- and  ~~splash-truck~~ blending, recompute oxygen content by weight for a representative sample of deliveries based on detailed meter readings of gasoline, blendstocks and oxygenate receipts.
  - (B) For CARs using in-tank blending of gasoline, blendstocks and oxygenates, obtain register of running weighted oxygen content by tank and:
    - (i) Using the individual sample items from subsections (c) and (d) above, test calculation of running totals.
    - (ii) Where laboratory analysis is used with the CARs weighted average calculation, select individual analysis reports of oxygenated gasoline receipts and deliveries during the period on a representative sample basis.
      - (I) Review laboratory results for consistency with CAR's calculations noting oxygen volume and specific gravity.
      - (II) Recalculate oxygen by weight.
      - (III) Agree information on lab reports to underlying delivery and receiving documentation.

- (i) Obtain register of oxygen credit unit purchases and sales and select separate representative samples of individual purchased credits and individual sales credits.
  - (A) Agree selected credit unit transactions to the underlying contract and/or other supporting documentation noting specific volumes and oxygen content of the gasoline associated with the credits.
  - (B) Agree to the underlying contract and/or supporting documentation that the credits are generated in the same control areas as they are used. For example, no credits may be transferred between control areas.
  - (C) Agree to the underlying contract and/or supporting documentation that the credits are generated in the same averaging period as they are used.
  - (D) Agree to the underlying contract and/or supporting documentation that the ownership of credits is transferred only between CARs.
  - (E) Agree to the underlying contract and/or supporting documentation that the credit transfer agreement was made no later than 30 days after the final day of the averaging period in which the credits are generated.
  - (j) Prepare a report to client in accordance with the report provisions of Statements on Standards for Attestation Engagements indicating results of performing the above procedures.
- (9) The attestation report must be in compliance with the AICPA's Statement on Standards for Attestation Engagements.

### **Dispenser Labeling**

#### **340-22-[640]650**

- (1) A person who sells or markets oxygenated gasoline at retail, or who otherwise provides oxygenated gasoline for consumption by an ultimate consumer, shall place two labels on a dispenser used to dispense the gasoline to identify the oxygenate in the fuel, using the following criteria:
  - (a) The first label must include the following statement: "The gasoline dispensed from this pump is oxygenated and will reduce carbon monoxide pollution from motor vehicles."

- (b) The second label must contain the type of oxygenate(s) and the exact (plus or minus 0.5%) or maximum use concentration by volume.<sup>4</sup>

**NOTE: This applies only to the Department rules and a dispenser is still responsible for complying with the disclosure requirements of ORS 646.915.**

- ~~[(A) Blends of up to 10% by volume anhydrous ethanol (200 proof) (commonly referred to as the "gasohol" waiver).~~
- ~~(B) Blends of methanol and gasoline grade tertiary butyl alcohol (GTBA) such that the total oxygen content does not exceed 3.5% by weight and the ratio of methanol to GTBA is less than or equal to one. It is also specified that this blended fuel must meet ASTM volatility specifications (commonly referred to as the "ARCO" waiver).~~
- ~~(C) Blends of up to 5.0% by volume methanol with a minimum of 2.5% by volume cosolvent alcohols having a carbon number of 4 or less (i.e. ethanol, propanol, butanol and/or GTBA). The total oxygen must not exceed 3.7% by weight, and the blend must meet ASTM volatility specifications as well as phase separation and alcohol purity and inhibitor specifications (commonly referred to as the "DuPont" waiver).~~
- ~~(D) Blends up to 5.0% by volume methanol with a minimum of 2.5% by volume cosolvent alcohols having a carbon number of 8 or less. The total oxygen must not exceed 3.7% by weight and the blend must meet ASTM volatility specifications as well as phase separation and alcohol purity and inhibitor specifications (commonly referred to as the "Octamix" waiver).~~
- ~~(E) Blends up to 15.0% by volume methyl tertiary butyl ether (MTBE) which must meet the ASTM D4614 specifications. Blenders must take precautions that the blends are not used as base gasolines for other oxygenated blends (commonly referred to as the "Sun" waiver).~~
- ~~(F) Blends of aliphatic alcohols other than methanol and aliphatic ethers, provided the oxygen content does not exceed 2.7% by weight.~~
- ~~(G) Blends of methanol up to 0.3 percent by volume exclusive of other oxygenates.~~
- ~~(H) Blends up to 2.75% by volume methanol with an equal volume of butanol or alcohols of a higher molecular weight.]~~
- (c) Lettering on the label must be legible and in block style of at least 20 point bold type.
- (d) The lettering on the label shall be in a color contrasting to the intended background.

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<sup>4</sup> Remainder of subsection (b) moved to Oxygenated Gasoline Blending Rule OAR 340-22-530(4)



- (e) The label must be placed on each side of the dispenser from which the gasoline can be dispensed and shall be on the upper one half of the dispenser, in a position that will be clear and conspicuous to the consumer.

Stat. Auth.: ORS Ch. 468A

Hist.: AQ 21-1992, f. 10-30-92, ef. 11-1-92

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]

- (2) A person who pursuant to OAR 340-22-460(7) dispenses nonoxygenated gasoline in a control area during the control period at a site where motor vehicles may have access must display a label in accordance to the standards above containing the following information: "This fuel is not oxygenated to state of Oregon standards and may not be dispensed into motor vehicles."

NOTE: Dispensing sites that are not accessible to motor vehicles are not required to have the above labels.

### Contingency Provision for Carbon Monoxide Nonattainment Areas

#### 340-22-660

- (1) Subsections (a), (b), (c), and (d) of this rule apply to OAR 340-22-440 through 340-22-650.

(a) Upon determination by the Department, or written notification to the Department by the EPA Administrator that a carbon monoxide nonattainment area in a control area, as specified in OAR 340-22-470, fails to meet an applicable Clean Air Act deadline for attainment of the NAAQS for carbon monoxide, the following provisions shall become applicable in such control areas within eight months of written notification by the Department or the EPA Administrator, whichever is sooner:

(A) Oxygenates shall be supplied at maximum EPA approved oxygen content levels during the control period (e.g. 3.5% for gasoline oxygenated with ethanol and 2.7% for gasoline oxygenated with MTBE);

(B) Compliance calculations shall be based on the per gallon oxygen content supplied by each CAR or blender CAR during the control period;

(b) At the end of each control period during which fuel meeting requirements of section (1)(a) of this rule is supplied, the Department will evaluate control area oxygenate mix information which is submitted by CARs and blender CARs in accordance with OAR 340-22-570. If the Department projects, based on this data, that the average oxygen content of gasoline supplied in a control area will be less than 3.1% in the next control season, the Department shall notify affected parties no later than March 1 and the following additional requirements shall become effective in subsequent control periods:

(A) The average oxygen content standard of gasoline for CARs or blender CARs using the Average Oxygen Content Standard Compliance Option, shall be increased to a minimum of 2.9%;

(B) The oxygen content standard of gasoline for CARs and blender CARs using the Per Gallon Oxygen Content Standard Compliance Option, shall be increased to a minimum of 2.9%;

(C) Compliance calculations and the calculation of oxygen credit units, where applicable, shall be based on an oxygen content of 2.9%.

(c) Federal standards for percent by volume oxygenate content may not be exceeded and shall not be affected by any requirement under subsection (1) of this rule;

(d) This rule shall be applicable during the control period specified in OAR 340-22-460(2).

[NOTE: Rule sections affected by this provision include: OAR 340-22-450(22); OAR 340-22-500(1); OAR 340-22-500(2); OAR 340-22-510(1); OAR 340-22-510(3)(a)(B); OAR 340-22-520(1)(a); OAR 340-22-520(2)(a); and OAR 340-22-640(8)(e).]

(2) The Department may authorize the implementation of an equivalent alternative program to achieve necessary carbon monoxide emission reductions as a substitute for measures outlined in sections (1)(a)(A), (B), and (C) of this rule. An alternative carbon monoxide contingency plan which is authorized by the Department shall not become effective until approved by the EPA as a SIP revision.

**ATTACHMENT B**  
**SUPPORTING PROCEDURAL DOCUMENTATION**

**NOTICE OF PROPOSED RULEMAKING HEARING**

(Rulemaking Statements and Statement of Fiscal Impact must accompany this form.)

**AGENCY:** Department of Environmental Quality, Air Quality Division

The above named agency gives notice of hearing.

**HEARING TO BE HELD:**

<b>DATE:</b>	<b>TIME:</b>	<b>LOCATION:</b>
8/16/93	7 p.m.	City Council Chambers, City Hall, 6th and A Streets, Grants Pass, OR Presiding Officer: Andrew Ginsburg
8/17/93	7 p.m.	Medford City Council Chambers, 411 W. 8th Street, Medford, OR Presiding Officer: Jacqueline Fern
	7 p.m.	State Office Building, 800 NE Oregon Street, Room 120, Portland, OR Presiding Officer: David Collier
8/18/93	7 p.m.	County Commission Hearing Room, Court House Annex, Klamath Falls, OR Presiding Officer: Andrew Ginsburg

Pursuant to the Statutory Authority of ORS 468A.420 the following action is proposed:

**ADOPT:** OAR 340-22-660

**AMEND:** OAR 340-22-440 through OAR 340-22-640

Prior Notice Given; Hearing Requested by Interested persons

No Prior Notice Given

**SUMMARY:**

The Department proposes to raise the minimum average oxygen content in motor vehicle fuel to 2.9% as a means to meet EPA carbon monoxide (CO) contingency plan requirements. Contingency plans will be triggered upon written notification from the EPA to the Department if any of Oregon's four classified CO nonattainment areas fail to meet National Ambient Air Quality Standards (NAAQS) for CO by the Clean Air Act deadline of December 31, 1995. Other related options may be considered as part of the public hearing process.

The existing Motor Vehicle Fuel Specifications for Oxygenated Gasoline rules also require housekeeping amendments to clarify rule requirements, strengthen enforceability, and to better define the scope of applicability.

Interested persons may comment on the proposed rules orally or in writing at the hearing. Written comments received by 5 p.m., August 18, 1993 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:** Air Quality Planning  
811 S. W. 6th Avenue  
Portland, Oregon 97204

**ATTN:** Katherine Huit

**PHONE:** (503) 229-6829 or Toll Free 1-800-452-4011

Howard W. Harris 7-7-93  
Signature Date

**PROPOSED REVISIONS TO THE MOTOR VEHICLE FUEL SPECIFICATIONS FOR  
OXYGENATED GASOLINE INCLUDING CARBON MONOXIDE CONTINGENCY  
PLANS  
REQUIRED BY THE CLEAN AIR ACT**

Date Issued:	July 16, 1993
Public Hearings:	August 16-18, 1993
Comments Due:	August 18, 1993

**WHO IS  
AFFECTED:**

Gasoline terminals, bulk plants, distributors, service stations, and consumers of gasoline in Clackamas, Jackson, Josephine, Klamath, Multnomah, Washington, and Yamhill counties.

**WHAT IS  
PROPOSED:**

The Department is proposing to amend and add an additional rule to the Motor Vehicle Fuel Specifications for Oxygenated Gasoline (OAR 340-22-440 through 340-22-640).

The proposed rulemaking addresses two needs:

- 1) Implementation of carbon monoxide contingency plans as required by EPA for classified nonattainment areas which fail to meet federal carbon monoxide standards by the December 31, 1995 Clean Air Act deadline;
- 2) Housekeeping amendments to clarify oxygenated fuel rule requirements, scope of applicability, and enforceability.

**WHAT ARE THE  
HIGHLIGHTS:**

Four carbon monoxide nonattainment areas in Oregon are currently required to use motor vehicle fuel with an average oxygen content of 2.7% from November 1 through February 29. The Department proposes that the oxygen content be raised to 2.9% if any of these areas fail to reach attainment by the Clean Air Act deadline. This requires the addition of a contingency provision rule to the Motor Vehicle Fuel Specifications for Oxygenated Gasoline.

Alternative measures were examined, including Employee Commute Options and expansion of vehicle inspection program boundaries in the Medford and Portland areas. The development of these measures would be time consuming and less cost-effective and would extend beyond the November 15, 1993 EPA deadline for the submittal of contingency plans:

In addition to modifications to include carbon monoxide contingency provisions, the oxygenated fuel rules (OAR 340-22-440 through 340-22-640) will be revised to separate the requirements for sites which dispense gasoline on a per gallon basis from those using an averaging method. Also, an exemption will be provided to dispensing sites of gasoline which will not be used in motor vehicles.

**HOW TO  
COMMENT:**

Public Hearings to provide information and receive public comment are scheduled as follows:

Grants Pass	August 16, 1993, 7:00 p.m. City Council Chambers, City Hall 6th and A Streets
Medford	August 17, 1993, 7:00 p.m. Medford City Council Chambers 411 W. 8th Street
Portland	August 17, 1993, 7:00 p.m. Room 120, 800 NE Oregon Street State Office Building
Klamath Falls	August 18, 1993, 7:00 p.m. County Commission Hearing Room Court House Annex

Written comments must be received by 5:00 p.m. on August 18, 1993 at the following address:

Department of Environmental Quality  
Air Quality Division  
811 S. W. 6th Avenue  
Portland, Oregon, 97204

A copy of the Proposed Rule may be reviewed at the above address. A copy may be obtained from the Department by calling the Air Quality Division at 229-6928 or calling Oregon toll free 1-800-452-4011.

**WHAT IS THE  
NEXT STEP:**

The Department will evaluate comments received and will make a recommendation to the Environmental Quality Commission. Interested parties can request to be notified of the date the Commission will consider the matter by writing to the Department at the above address.



State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal

for

Revisions to the Motor Vehicle Fuel Specifications for Oxygenated Gasoline as the primary strategy for Carbon Monoxide (CO) Contingency Plans and other housekeeping amendments.

Rulemaking Statements

Pursuant to ORS 183.335(7), this statement provides information about the Environmental Quality Commission's intended action to adopt a rule.

1. Legal Authority

This proposal amends Oregon Administrative Rules (OAR) 340-22-440 through 340-22-640. It is proposed under authority of Oregon Revised Statutes (ORS) Chapter 468A.

2. Need for the Rule

The EPA requires that states develop carbon monoxide (CO) contingency plans for nonattainment areas which fail to meet National Ambient Air Quality Standards (NAAQS) for CO by the Clean Air Act deadline of December 31, 1995. Among the alternatives evaluated, raising the oxygen content in motor vehicle fuel will be the easiest and most cost-effective to implement and will provide the most immediate reductions in CO emissions.

The existing Motor Vehicle Fuel Specifications for Oxygenated Gasoline rules also require housekeeping amendments to clarify rule requirements and scope of applicability, and to strengthen enforceability.

3. Principal Documents Relied Upon in this Rulemaking

Clean Air Act Section 172(c)

Technical Support Document to Aid States With the Development of Carbon Monoxide State Implementation Plans  
OAR 340-22-440 through 340-22-640

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal  
for

Revisions to the Motor Vehicle Fuel Specifications for Oxygenated Gasoline as the primary strategy for Carbon Monoxide (CO) Contingency Plans and other housekeeping amendments.

## Fiscal and Economic Impact Statement

### Introduction

The Clean Air Act Amendments of 1990 require the State Implementation Plan for each carbon monoxide (CO) nonattainment area to include a contingency plan which would take effect upon notification to the Department by EPA should that area fail to meet the National Ambient Air Quality Standards for CO by December 31, 1995. The proposed rule amendments to fulfill the contingency plan requirement would require motor vehicle fuel dispensed within existing carbon monoxide control areas and during the specified control period (November 1 through February 29), to contain an average oxygen content by weight of at least 2.9%.

Assessing the fiscal and economic impacts of the proposed CO contingency provision is complex due to the wide range and variability of factors involved. In particular, the prices of oxygenate and clear gasoline fluctuate significantly. Costs associated with storage and transportation vary widely depending on the type of oxygenate and its accessibility to suppliers. Other factors include the range in contract prices for oxygenates and the possible repeal of the Oregon tax credit for fuel oxygenated with ethanol. Future national requirements for reformulated gasoline may also affect the price of oxygenates.

### Background on Fuel Pricing

Oregon's oxygenated fuel program was first implemented in designated control areas during the winter of 1992-93, and requires a minimum oxygen content of 2.7%. Primarily due to existing state and federal tax credits for ethanol, during the 1992-93 control period suppliers provided fuel with the maximum allowable volume of ethanol (10%), achieving an oxygen content of 3.5%. A contingency requirement of 2.9% oxygen would be an increase of 0.2% above what is currently required, and a reduction of 0.6% from what was provided last season.

During the 1992-93 control season it was estimated that the wholesale price of ethanol was \$1.60 per gallon and the price of methyl tertiary butyl ether (MTBE) was \$1.17 per gallon.<sup>1</sup> MTBE seems to be the least cost option on a per gallon basis, however, a federal tax credit of as much as \$0.054 per gallon<sup>2</sup> and a state tax credit of \$0.05 per gallon<sup>3</sup> significantly discounted the cost of ethanol fuel.

A cost analysis of fuel prices shows that before tax credits, suppliers paid between \$0.72 and \$0.75 per gallon during the 1992-93 control period for fuel oxygenated with 10% ethanol. Tax credits provided a discount of approximately ten cents, reducing prices to between \$0.62 and \$0.65 per gallon.

### General Cost Impacts of Contingency Requirements

To achieve 2.9% oxygen content, suppliers will likely use either ethanol alone, or a combination of ethanol and MTBE averaged over the control period. The Department is currently working to obtain a waiver from EPA to allow the dual-blending of MTBE or other oxygenates and ethanol. The cost of dual-blending is expected to be the same as the cost reflected below for MTBE and ethanol averaged over the control period. For the purposes of this analysis, it is assumed that the state tax credit will be repealed.

#### Method 1: Ethanol Only

Without the economic incentive of the state tax credit, it is expected that suppliers will use the minimum ethanol volume required (8.3%) to meet the 2.9% oxygen content requirement. As shown in Table 1, this will yield an increased cost of zero to three cents per gallon above the cost required to meet 2.7% oxygen content with ethanol.

#### Method 2: Ethanol and MTBE Averaged Over Control Period

EPA's Substantially Similar Ruling prohibits the dual-blending of MTBE and ethanol. However, the two oxygenates can be used separately to meet the contingency plan's average oxygen content requirement of 2.9%. This could be accomplished by using ethanol as an oxygenate in 25% of all oxygenated fuel supplied and using MTBE to oxygenate the balance. Assuming the state tax credit is repealed, the cost of averaging MTBE and ethanol to achieve an oxygen content of 2.9% will likely cost three to seven cents more per gallon than using only ethanol to meet a 2.7% oxygen content.

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<sup>1</sup> These are high estimates based on State of California figures from 1992.

<sup>2</sup> The IRS provides a tax credit of \$0.054 per gallon of oxygenated fuel containing 10% ethanol. The tax credit for blends containing less than 10% ethanol but at least 7.7% ethanol is \$0.0416 per gallon.

<sup>3</sup> The Oregon tax credit is provided for each gallon of oxygenated fuel containing 10% ethanol.

Table 1 illustrates the likely effect of the contingency rule on the wholesale price of oxygenated fuel, taking into consideration changes in state and federal tax credits, the costs involved to achieve a final fuel with a 2.9% oxygen content, and the two techniques used to achieve the oxygen content target of 2.9%. The possible range of economic impact from the contingency rule, with and without the state ethanol tax credit, can be estimated from the table.

The base costs identified represent the current wholesale market structure in the control areas. Net cost increases can be identified for the various market and strategic possibilities. This analysis indicates that based on wholesale costs, using ethanol may be less expensive than using a combination of MTBE and ethanol, despite expected reductions in tax credits. Future price variation in MTBE or other oxygenates may make the use of these alternatives more attractive. Due to issues of proprietary information, the Department can only estimate the full range of costs involved in the distribution of oxygenated fuels.

### **General Public**

If the state tax credit for ethanol were not repealed, suppliers would likely continue to provide fuel oxygenated with 10% ethanol. No additional financial impact to the general public would be anticipated, unless unexpected fluctuations in the oxygenated fuel or clear gasoline markets were to occur, driving costs up.

Assuming the state tax credit for ethanol is repealed, the cost to consumers for oxygenated fuel which meets a 2.9% oxygen content instead of 2.7% could be zero to three cents higher using only ethanol and three to seven cents higher using a combination of MTBE and ethanol.

### **Small Business**

Without the state tax credit, the cost to gasoline distributors for oxygenated fuel which meets a 2.9% oxygen content instead of 2.7% could be zero to three cents higher using only ethanol and three to seven cents higher using a combination of MTBE and ethanol. This increased cost, or a portion of it, may be passed on to retailers and, if so, the price of oxygenated gasoline to consumers may in turn be raised.

Housekeeping amendments will benefit small businesses by improving the clarity of oxygenated fuel rule requirements.

### **Large Business**

If the state tax credit were repealed, the cost to oil companies, terminal operators, and large-scale distributors could be zero to three cents higher using only ethanol and three to seven cents higher using a combination of MTBE and ethanol. This increased cost, or a portion of it, may be passed on to small distributors or retailers.

Housekeeping amendments will benefit large businesses by improving the clarity of oxygenated fuel rule requirements.

### Local Governments

No program impacts are anticipated except for fleet operations affected by changes in the cost of fuel.

### State Agencies

No program impacts are anticipated except for fleet operations affected by changes in the cost of fuel.

No additional work will be created by the housekeeping changes. Existing resources will be sufficient to carry out public education efforts, implementation and enforcement of the Contingency Provision. Thus, additional costs to the Department are not expected.

### Assumptions

The state tax credit of \$0.05 per gallon of oxygenated fuel containing 10% ethanol will be repealed prior to the 1993-94 control period.

Clear gasoline cost of approximately \$0.65 per gallon will remain stable through the next control period. This price is based on figures of approximately \$0.70 per gallon in June 1993 and \$0.61 per gallon in February 93.

Estimated costs of MTBE and ethanol will remain stable through the next control period.

No alternative oxygenates, which are more cost-effective than ethanol or MTBE, will be available by 1996.

Ethanol will remain the preferred oxygenate whether or not the state tax credit is repealed.

If the state tax credit is repealed, suppliers will decrease the volume of ethanol used per gallon of oxygenated fuel from 10% to 8.3% rather than: a) continue to supply at the higher ethanol content; or b) use a combination of ethanol and MTBE averaged over the control period.

TABLE 1: ESTIMATED WHOLESALE COSTS FOR OXYGENATED FUEL

Oxygenate	Target Oxygen Content	% Oxygenate in Gallon Blended Fuel to Meet Oxygen Content	Cost of Oxygenate Required to Meet Oxygen Content <sup>1</sup>	Cost Per Gallon Blended Fuel w/o Tax Credits <sup>2</sup>	State Tax Credit <sup>3</sup>	Federal Tax Credit <sup>4</sup>	Final Cost with Tax Credits <sup>5</sup>	Final Cost if State Tax Credit Repealed
Ethanol	2.7%	7.7%	\$0.10 to .12	\$0.70 to .72	0	\$0.0416	\$0.66 to .68	\$0.66 to .68
	2.9%	8.3%	\$0.11 to .13	\$0.70 to .73	0	\$0.0416	\$0.66 to .69	\$0.66 to .69
	3.1%	8.9%	\$0.12 to .14	\$0.71 to .73	0	\$0.0416	\$0.67 to .69	\$0.67 to .69
	3.5%	10%	\$0.13 to .16	\$0.72 to .75	\$0.05	\$0.054	\$0.62 to .65	\$0.67 to .70
MTBE	2.7%	15%	\$0.14 to .18	\$0.69 to .73	0	0	\$0.69 to .73	\$0.69 to .73
Ethanol MTBE 25/75) <sup>6</sup>	3.5% <u>2.7%</u> 2.9%	10% Ethanol 15% MTBE	\$0.13 to .16 \$0.14 to .18	\$0.70 to .74 <sup>7</sup> (average)	\$0.013 (average)	\$0.014 (average)	\$0.67 to .71	\$0.69 to .73

See footnotes on following page

- 1 These costs are based on the following range of rack prices of oxygenate:  
Ethanol: \$1.30 - 1.60 per gallon; MTBE: \$0.90 - \$1.20 per gallon. Thus, to achieve 2.7% oxygen content with ethanol, the cost of oxygenate required ranges from 7.7% of \$1.30 (\$0.10) to 7.7% of \$1.60 (\$0.12).
- 2 Based on cost of \$0.65/gallon for non-oxygenated gasoline. e.g. one gallon of blended fuel containing 10% ethanol, will contain 90% clear gas at a cost of \$0.59.
- 3 State tax credit is available for each gallon of oxygenated fuel containing 10% ethanol.
- 4 The IRS provides a tax credit of \$0.054 per gallon of oxygenated fuel containing 10% ethanol. Blends containing between 7.7% ethanol and less than 10% receive a tax credit of \$0.0416 per gallon.
- 5 Includes both federal and state tax credit.
- 6 Ethanol used as oxygenate in 25% of total volume of fuel supplied to meet oxygen content of 3.5%; MTBE used as oxygenate in 75% of total volume of fuel supplied to meet oxygen content of 2.7%. Yields average oxygen content of 2.9%.
- 7  $[(25 \times .72) + (75 \times .69)]/100 = \$0.6975$  (low average cost per gallon);  $[(25 \times .75) + (75 \times .73)]/100 = \$0.735$  (high average cost per gallon)

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal  
for

Revisions to the Motor Vehicle Fuel Specifications for Oxygenated Gasoline as the primary strategy for Carbon Monoxide (CO) Contingency Plans and other housekeeping amendments.

Land Use Evaluation Statement

1. Explain the purpose of the proposed rules.

- a) Proposed revisions to the oxygenated fuel rules would raise the average oxygen content in wintertime motor vehicle fuel to 2.9% to meet EPA contingency plan requirements in Oregon's four classified carbon monoxide nonattainment areas if any of these areas fail to meet federal standards by the December 31, 1995 Clean Air Act deadline. The areas affected are Grants Pass, Klamath Falls, Portland, and Medford-Ashland.
- b) The proposed amendments would also clarify and reorganize current oxygenated fuel rules to minimize misinterpretation and to more clearly define the scope of applicability.

2. Do the proposed rules affect existing rules, programs or activities that are considered land use programs in the DEQ State Agency Coordination (SAC) Program?

Yes \_\_\_ No X

a. If yes, identify existing program/rule/activity:

b. If yes, do the existing statewide goal compliance and local plan compatibility procedures adequately cover the proposed rules?

Yes \_\_\_ No \_\_\_ (if no, explain):



**c. If no, apply the following criteria to the proposed rules.**

Staff should refer to Section III, subsection 2 of the SAC document in completing the evaluation form. Statewide Goal 6 - Air, Water and Land Resources is the primary goal that relates to DEQ authorities. However, other goals may apply such as Goal 5 - Open Spaces, Scenic and Historic Areas, and Natural Resources; Goal 11 - Public Facilities and Services; Goal 16 - Estuarine Resources; and Goal 19 - Ocean Resources. DEQ programs or rules that relate to statewide land use goals are considered land use programs if they are:

1. Specifically referenced in the statewide planning goals; or
2. Reasonably expected to have significant effects on
  - a. resources, objectives or areas identified in the statewide planning goals, or
  - b. present or future land uses identified in acknowledged comprehensive plans.

In applying criterion 2. above, two guidelines should be applied to assess land use significance:

- The land use responsibilities of a program/rule/action that involves more than one agency, are considered the responsibilities of the agency with primary authority.
- A determination of land use significance must consider the Department's mandate to protect public health and safety and the environment.

**In the space below, state if the proposed rules are considered programs affecting land use. State the criteria and reasons for the determination.**

The proposed Contingency Provision rule and housekeeping amendments to the oxygenated fuel rules are not considered land use programs since they are not related to any of the statewide land use goals.

3. If the proposed rules have been determined a land use program under 2. above, but are not subject to existing land use compliance and compatibility procedures, explain the new procedures the Department will use to ensure compliance and compatibility.

Division \_\_\_\_\_

Robert You 9/7/93  
Intergovernmental Coord. Date

## AMENDMENTS TO CARBON MONOXIDE STATE IMPLEMENTATION PLANS

The Oregon State Implementation Plan (OAR 340-20-047), will be revised as follows:

- 1) Section 4.2 Portland-Vancouver Interstate Air Quality Maintenance Area (AQMA)  
(Oregon Portion) State Implementation Plan for Carbon Monoxide

4.2.6.3 Contingency Provision

- a) 1982 Provisions [to be inserted]
- b) 1993 Provisions

The Federal Clean Air Act Amendments of 1990 require states to adopt contingency plans for moderate carbon monoxide nonattainment areas by November 15, 1993. If triggered, the Department's CO Contingency Provision initially requires motor vehicle fuel dispensed between November 1 and February 29 in the Portland-Vancouver control area to be supplied at maximum EPA approved oxygen contents. After the CO contingency plan is triggered and oxygenates are being supplied at maximum EPA approved levels, the Department will assess seasonal oxygenate mix reports to project whether an average control area oxygen content of 3.1% will be reached in subsequent control periods. If the Department's projection indicates that the oxygen content will be less than 3.1%, a 2.9% mandatory average oxygen content to be achieved by all Control Area Responsible Parties (CARs) and blender CARs, will be implemented for future control periods.

Implementation of this measure will be formally triggered upon written notification by the Department or EPA that a carbon monoxide nonattainment area failed to meet applicable standards by the December 31, 1995 Clean Air Act deadline. EPA notification may be received as early as March 1996 and will be followed by publication in the Federal Register. The Department would expect to notify suppliers by March 1 if a violation of the CO standards occurs in the Portland CO nonattainment area during 1995. This will provide approximately eight months of lead time to implement the CO contingency provision for the 1996-97 winter CO season.

2) Section 4.9 Medford-Ashland Air Quality Maintenance Area State Implementation Plan for Carbon Monoxide

4.9.5.3 Contingency Provision

- a) 1982 Provisions [to be inserted]
- b) 1993 Provisions

The Federal Clean Air Act Amendments of 1990 require states to adopt contingency plans for moderate carbon monoxide nonattainment areas by November 15, 1993. If triggered, the Department's CO Contingency Provision initially requires motor vehicle fuel dispensed between November 1 and February 29 in the Medford-Ashland control area to be supplied at maximum EPA approved oxygen contents. After the CO contingency plan is triggered and oxygenates are being supplied at maximum EPA approved levels, the Department will assess seasonal oxygenate mix reports to project whether an average control area oxygen content of 3.1% will be reached in subsequent control periods. If the Department's projection indicates that the oxygen content will be less than 3.1%, a 2.9% mandatory average oxygen content to be achieved by all Control Area Responsible Parties (CARs) and blender CARs, will be implemented for future control periods.

Implementation of this measure will be formally triggered upon written notification by the Department or EPA that a carbon monoxide nonattainment area failed to meet applicable standards by the December 31, 1995 Clean Air Act deadline. EPA notification may be received as early as March 1996 and will be followed by publication in the Federal Register. The Department would expect to notify suppliers by March 1 if a violation of the CO standards occurs in the Portland CO nonattainment area during 1995. This will provide approximately eight months of lead time to implement the CO contingency provision for the 1996-97 winter CO season.

3) Section 4.11 Grants Pass Carbon Monoxide Control Strategy

4.11.5.4 Contingency Provision

- a) 1986 Provisions [to be inserted]
- b) 1993 Provisions

The Federal Clean Air Act Amendments of 1990 require states to adopt contingency plans for moderate carbon monoxide nonattainment areas by

November 15, 1993. If triggered, the Department's CO Contingency Provision initially requires motor vehicle fuel dispensed between November 1 and February 29 in the Grants Pass control area to be supplied at maximum EPA approved oxygen contents. After the CO contingency plan is triggered and oxygenates are being supplied at maximum EPA approved levels, the Department will assess seasonal oxygenate mix reports to project whether an average control area oxygen content of 3.1% will be reached in subsequent control periods. If the Department's projection indicates that the oxygen content will be less than 3.1%, a 2.9% mandatory average oxygen content to be achieved by all Control Area Responsible Parties (CARs) and blender CARs, will be implemented for future control periods.

Implementation of this measure will be formally triggered upon written notification by the Department or EPA that a carbon monoxide nonattainment area failed to meet applicable standards by the December 31, 1995 Clean Air Act deadline. EPA notification may be received as early as March 1996 and will be followed by publication in the Federal Register. The Department would expect to notify suppliers by March 1 if a violation of the CO standards occurs in the Grants Pass CO nonattainment area during 1995. This will provide approximately eight months of lead time to implement the CO contingency provision for the 1996-97 CO season.

State of Oregon  
Department of Environmental Quality

## Memorandum

Date: September 1, 1993

**To:** Environmental Quality Commission  
**From:** Jacqueline Fern, Hearings Officer *JIF*  
**Subject:** Hearings Report for Revisions to Oregon's Motor Vehicle Fuel Specifications for Oxygenated Gasoline.

Four hearings were held to accept testimony on proposed rules that will satisfy EPA requirements for carbon monoxide contingency plans and clarify existing oxygenated fuel rules. Testimony on other rulemaking packages was also accepted at these hearings.

On August 16, 1993 a public hearing was held in Grants Pass, Oregon at the City Council Chambers, 6th and A Streets. The presiding officer was Andrew Ginsburg. Two people attended and no one gave written or oral testimony.

On August 17, 1993 a public hearing was held in Medford, Oregon at the City Council Chambers, 411 W. 8th Street. The presiding officer was Jacqueline Fern. Ten people attended and no one gave oral or written testimony at that time on the rulemaking package.

On August 17, 1993 a public hearing was held in the State Office Building, 800 NE Oregon Street, Room 120, Portland, OR. The presiding officer was David Collier. Nine people attended and three gave oral testimony on the proposed rule revisions. Two of these people also submitted written comments at the hearing.

On August 18, 1993 a public hearing was held in the Klamath County Library, in Klamath Falls, OR. The presiding officer was Andrew Ginsburg. Five people attended and two gave oral testimony on the proposed rulemaking package.

At each of the hearings people were asked to sign witness registration forms if they wished to present testimony. People were also advised that the hearing was being recorded and of the procedures to be followed. Prior to receiving testimony, the presiding officer briefly explained the specific rulemaking proposals and the reasons for the proposals. People were then called to testify in the order of receipt of witness registration forms and presented testimony as noted in this report. Immediately following oral testimony, the presiding officer responded to questions from the audience.

A total of five written comments were received by the Department prior to the end of the public comment period at 5 p.m. on August 18, 1993. The following report summarizes both oral and written comments received on this rulemaking package. Note that related

Memo To: Environmental Quality Commission  
Presiding Officer's Report  
August 16-18, 1993 Rulemaking Hearings  
Page 2

comments have been combined and summarized as individual issues. The persons who commented are identified by a code which is keyed to the entries in the Testimony References table.

Written testimony submitted for the record is located in Attachment D of this package and the Department's response to all comments submitted during the public comment period can be found in Attachment E.

**TESTIMONY REFERENCES  
ON REVISIONS TO THE MOTOR VEHICLE FUEL SPECIFICATIONS FOR  
OXYGENATED GASOLINE**

**Public Testimony Given in Portland**

<u>Number</u>	<u>Oral Testimony</u>	<u>Written Comment</u>	<u>Name and Affiliation</u>
P1	Yes	Yes	Dennis Lamb, Manager of Planning Unocal Corporation
P2	Yes	Yes	Steve Crockett, British Petroleum
P3	Yes	No	Neil Koehler, Parallel Products
P4	DNA <sup>1</sup>	Yes	Del Fogelquist, Northwest Regional Manager Western States Petroleum Association

**Public Testimony Given in Medford**

M1	DNA	Yes	Sue Kupillas, President, Rogue Valley Council of Governments
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**Public Testimony Given in Klamath Falls**

K1	Yes	No	Ed Clough, Clough Oil Company
K2	Yes	No	Rod Slade, May Slade Oil Company
K3	DNA	Yes	Leonard Hoops, Planning and Regulatory Manager, PGT

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<sup>1</sup> DNA - Did not attend

## SUMMARY OF PUBLIC COMMENT ON REVISIONS TO THE MOTOR VEHICLE FUEL SPECIFICATIONS FOR OXYGENATED GASOLINE

1. P1,P2,P4  
**DEQ should focus on reclassifying CO nonattainment areas instead of spending time developing CO contingency measures.**

CO contingency measures are unnecessary since air quality data shows that all areas were in attainment for CO prior to the winter of 1992 when oxy-fuel requirements were first implemented. The Department should pursue redesignation immediately for Portland and the other nonattainment areas. EPA could redesignate areas within 18 months, and the existing oxy-fuel program (requiring oxy-fuel with 2.7% oxygen) could serve as the CO contingency measure.

2. P1,P2,P4,M2  
**Alternatives to meet CO contingency requirements were not sufficiently addressed.**

DEQ has not adequately considered alternative CO contingency strategies such as: a) the identification of high emitters through remote sensing; b) Arizona's approach to reduce CO by lowering Reid Vapor Pressure (RVP); c) Enhanced or Expanded Inspection and Maintenance (I & M); and d) Employee Commute Options. DEQ's suggestions that industry can meet 2.9% oxygen content requirement by averaging MTBE and ethanol or trading credits are not workable solutions.

The Department should evaluate alternatives to meet a 2.9% oxygen content requirement which do not mandate the use of ethanol. Other options exist which will provide Oregon with improved air quality and are more workable for industry, minimizing cost to consumers.

One commenter suggested two specific options for DEQ to consider before finalizing the rulemaking proposal:

- Determine necessary CO emission reductions to meet contingency requirements and then let industry determine how they would achieve those reductions.
- Any CO reductions achieved through ozone maintenance plan strategies such as Enhanced or Expanded I & M, should be counted towards achieving total required CO reductions.

Another commenter suggested that necessary carbon monoxide emission reductions be achieved by tightening the stringency of the Portland Vehicle Inspection and Maintenance Program.



3. P1,P2,P4,K1,K2  
**Raising oxygen content creates an ethanol mandate and will eliminate market competition for oxygenates.**

Boosting the oxygen content in motor vehicle fuel eliminates a fuel supplier's choice of oxygenates by mandating exclusive use of ethanol during the oxy-fuel season. Eliminating competition creates the risk of one major supplier controlling the oxygenate market.

Different oxygen content requirements for oxygenated fuel in Oregon and California make distribution difficult. In addition, it is difficult to get oxygenates into Oregon in a competitive manner since product originating from California may not be usable.

4. P1  
**Requiring higher oxygen content means higher prices to consumers.**

Requiring 2.9% oxygen content will increase the price of gasoline by 15 cents per gallon before state and federal tax credits, substantially raising the price to consumers.

5. P1,P4,K1  
**Oxy-fuels have not contributed to CO reductions or compliance with the CO NAAQS. Continuing the oxy-fuel program is in contradiction with federal law.**

Since Oregon's CO nonattainment areas are actually in attainment and can maintain the standard without oxy-fuel, then continuing an oxy-fuel requirement would be contrary to federal law.

Contrary to DEQ claims, oxy-fuels have not played a major role in CO emission reductions across the state, and thus, should not be pursued as a contingency measure. One commenter noted that increased control over woodstove emissions in Klamath Falls was the main factor in improving wintertime pollution, not oxygenated fuel. Some commenters pointed out that future trends for vehicular CO emissions indicate substantial further reductions throughout the next decade, with or without oxygenated fuel (for all four nonattainment areas).

6. P1  
**It is unlikely that EPA will approve either modifications to the "substantially similar" rules or a waiver allowing use of MTBE with oxygen content of 2.9%.**

New issues regarding oxygenated fuels have arisen since the development of EPA's "substantially similar" regulations. Examples include conformity with the CAA, concern over NOx and ozone formation, and new toxics and health regulations. Because of this, it is unlikely that any modifications to the substantially similar rules would occur for several years.

Pursuing an EPA waiver to allow the use of MTBE with an oxygen content above 2.7% will likely be unsuccessful based on past discussions between the EPA and the oil industry.

7. P2  
**Advisory Committee recommended.**

DEQ should reconsider proposed plan and invite industry to participate in an Advisory Committee similar to the Oxy-Fuel Advisory Committee.

8. K1,K2  
**Wide use of clear gas within control area in Klamath Falls counteracted benefits of oxy-fuel.**

During the oxygenated fuel control period, many people purchased clear gas outside the Klamath Falls control area, yet CO pollution still declined. This is more proof that oxy-fuel rules are ineffective and unnecessary in Klamath Falls.

9. K3  
**Oxy-fuel rules create economic hardship and place other unnecessary requirements on wholesale purchaser-consumers with "low throughput."**

Wholesale purchaser-consumers who have 550 gallon or larger tanks with "low throughput" would suffer economic hardship under current regulations. DEQ should redefine "wholesale purchaser-consumer" to apply when at least 550 gallons of fuel are dispensed per month.

Wholesale purchaser-consumers should be granted an exemption from special labeling requirements outlined in OAR 340-22-650(I). In addition, recordkeeping requirements should be modified to specify that wholesale purchaser-consumers are only required to retain transfer documents during the control period. The CAR should be responsible for adequacy of information in these documents.

10. P4  
**DEQ's reasoning for requiring an oxygen content of 2.9% may be fallacious.**

The contingency measure requirement (2.9%) may be fallacious since federal tax subsidies may be sufficient to maintain the economic dominance of ethanol, providing areas with a continued supply of oxy-fuel exceeding the contingency level of 2.9%.

## GENERAL COMMENTS ON OREGON'S OXYGENATED FUEL REGULATIONS

1. M2  
Since oxy-fuels may add to ozone pollution problems, DEQ should amend rulemaking proposal to either preclude or discourage the use of oxy-fuels during the summer months.
2. K1  
Department should pursue waiver from oxygenated fuel rules for Klamath Falls. EPA has granted such an exclusion for Syracuse, New York.
3. K3  
Manufacturers have identified specific gas-operated equipment which requires non-oxygenated fuel. If oxy-fuels are used in this equipment it may result in a "higher rate of burned piston heads."

## MISCELLANEOUS PUBLIC COMMENT

1. P3  
The increased cost of oxygenated fuel is in the range of 2 to 5 cents per gallon, which is an affordable price to pay for the air quality benefits achieved. Oxygenated fuel is the most cost-effective method of reducing carbon monoxide.
2. P3  
Concerns raised over competition are unfounded since there is evidence that credit trading works and is not anti-competitive. One example is Arco in California which supplied oxygenated fuel on an averaging basis successfully, demonstrating that companies can be quite flexible.

**ATTACHMENT D**

**LIST OF WRITTEN COMMENTS RECEIVED**

# Council of Governments

155 S. Second Street  
P.O. Box 3275  
Central Point, OR 97502

503-664-6674

July 30, 1993

Mr. Steve Greenwood, Administrator  
Air Quality Division  
State of Oregon  
Department of Environmental Quality  
811 SW Sixth Street  
Portland, OR 97204-1390

## CARBON MONOXIDE CONTINGENCY PLAN - RULE MAKING PROPOSAL REVISIONS TO THE MOTOR VEHICLE FUEL SPECIFICATIONS FOR OXYGENATED GASOLINE (ADMINISTRATIVE RULE CHAPTER 340)

The Rogue Valley Council of Governments (RVCOG) has reviewed the proposal by the Department of Environmental Quality (DEQ) to adopt new rules and rule amendments regarding the implementation of carbon monoxide (CO) contingency plans, specifically with regard to the use of oxygenated fuels. As lead planning organization for transportation related air quality control measures within the Medford area, and continuing endeavors to evaluate CO nonattainment strategies to achieve federal and State air quality goals, the RVCOG is extremely interested in exploring various alternatives.

It is understood that the DEQ's proposal amending the oxygenated gasoline rule would require the wintertime oxygenated fuel minimum to be raised from a current 2.7% weight requirement to 2.9% in the event that Clean Air Act standards for CO are not met. The RVCOG supports this recommendation, and requests that alternatives for achieving a 2.9% oxygen content level continue to be evaluated so that ethanol is not the only oxygenate option available.

It is further requested that the DEQ review the impacts of oxygenated fuels on ozone levels in the summertime. During the summer of 1992, there were several occasions when the level of ozone produced in the Rogue Valley came very close to exceeding the allowable ozone limits. Use of oxygenated fuels may contribute to, and even exacerbate, the levels of ozone produced in the summer months. It is recommended the DEQ's proposal to amend the specifications for oxygenated gasoline, include a statement to preclude, or at a minimum, discourage the use of oxygenated fuels during the summer months (June - September).

We appreciate the opportunity to comment on the DEQ's proposed rule amendments. Should you have questions regarding our concerns, please contact Gary Shaff or Paula Brown at (503)664-6674.



Sue Kupillas  
President, Board of Directors

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AIR QUALITY DIVISION  
Dept. Environmental Quality





Western States Petroleum Association

Del J. Fogelquist  
Northwest Regional Manager

August 17, 1993

Fred Hansen, Director  
Oregon State Department of Environmental Quality  
811 S.W. 6th Avenue  
Portland, OR 97204-9310

Dear Mr. Hansen:

The Western States Petroleum Association (WSPA) would like to present its perspectives regarding Oregon's compliance with the carbon monoxide (CO) national ambient air quality standard (NAAQS) and DEQ's air management policies and proposed regulations.

We remain concerned that DEQ is proposing CO air management objectives and regulations that do not comport with actual environmental conditions, nor with requirements of the federal Clean Air Act of 1990.

#### CURRENT ATTAINMENT AND MAINTENANCE OF CARBON MONOXIDE NAAQS

For example, DEQ air monitoring for Portland demonstrates that compliance with the CO NAAQS was achieved during 1988/89 (except for one station which achieved in 1992) and has been consistently maintained through the present (1992/93) [See Attachment 1].

This achievement was accomplished without oxygenated gasoline.

Future trends for vehicular CO emissions for this community also indicate continued substantial reductions throughout the next decade, notwithstanding forecasted population increases, and regardless whether oxygenated gasoline is required or not. These same trends in CO air quality and emissions are also exhibited for Medford, Grants Pass, and Klamath Falls.

This means that Oregonians in these communities do not need to be burdened with the additional costs of oxygenated gasoline as a CO control measure, since actual attainment of the CO NAAQS has been demonstrated (or can easily be forecasted) without this measure. Forecasts of declining vehicular CO emissions for all these communities will similarly demonstrate continued maintenance of compliance with the CO NAAQS throughout the next decade without oxygenated gasoline.

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Dept. Environmental Quality

We believe that DEQ has the obligation to avoid burdening Oregonians with unwarranted, unnecessary regulatory and economic burdens.

Rather than pursuing unneeded and costly oxygenated gasoline CO control measures (including an oxygenated gasoline "contingency measure"), DEQ should take affirmative and timely actions now to seek redesignation of Portland and other communities as "attainment" with respect to the CO NAAQS, as provided by federal Clean Air Act Section 107(d)(3)(D) [42 USC 7407].

DEQ air monitoring data demonstrates compliance with the CO NAAQS. DEQ can readily prepare vehicular CO emissions trends and forecasts reports that would comprise the "ten-year maintenance plans" required by the Act under Section 175A(a) [42 USC 7505]. Such submissions to EPA would allow the Administrator to approve redesignations within 18 months, allow discontinuing the current requirement for oxygenated gasoline, and make the current oxygenated gasoline requirement a "contingency measure," only.

This strategy is consistent with Phip Millam's (Chief, Air & Radiation Branch, EPA Region X) statement "...if maintenance plan modeling shows that Oregon's oxygenated fuel program, which is required by the CAA, is not needed to maintain the CO standard it would be required to become a contingency measure in the maintenance plan." (August 11, 1993 letter to Steve Greenwood.)

We believe that successful, timely completion of this redesignation strategy should be DEQ's highest priority objective now.

#### **INCREASED GASOLINE OXYGEN CONTENT AS A "CONTINGENCY MEASURE"**

The "contingency measure" proposal to increase the oxygen content requirement for oxygenated gasoline may be fallacious. As you know, oxygenated gasoline delivered in the Northwest this last Winter contained ethanol exclusively, providing oxygen content far in excess of the current 2.7% oxygen content requirement, and beyond the proposed contingency measure requirement of 2.9%.

This occurred due, in large part, to federal and state tax subsidies for the use of ethanol as a motor fuel. While state tax subsidies in both Oregon and Washington have just been repealed (or reduced in scope), our experiences in other western cities (e.g., Denver, Las Vegas, and Phoenix) with mandated oxygenated gasoline programs indicates that once ethanol becomes the dominant oxygenate and terminal blending facilities have been installed, the economic advantage afforded by federal tax subsidies may continue to be sufficient to maintain ethanol market dominance.

This means that the likely average oxygen content of oxygenated gasoline, so long as it is still required, could be in excess of

the proposed 2.9% content requirement of the proposed "contingency measure." Therefore, the "contingency measure" requirement, if invoked, may result in no further increase in gasoline oxygen content, and thus no increased effect on vehicular CO emissions.

Under these circumstances, the proposed "contingency measure" is illusory and would fail to demonstrate additional CO emissions reductions that could be considered "real, permanent, and enforceable."

Changing economic circumstances in the future, however, might lead suppliers either to provide ether oxygenates (such as MTBE) at 2.7% oxygen content, or to reduce ethanol usage to 2.7% oxygen content. In this case, a contingency measure requiring 2.9% oxygen content would clearly preclude the more economic ethers, which are limited by federal rules to 2.7% oxygen content.

Instead of a slight cost increase going from 2.7% to 2.9% oxygen content with ethanol, such a requirement would most likely result in the use of ethanol at the more expensive 3.5% oxygen content level. This is because the federal ethanol excise tax credit is only available at 2.0, 2.7, or 3.5% oxygen content levels.

**A 2.9% oxygen content requirement is an ethanol mandate.**

Oxygen content credit market trading schemes (as have been proposed by EPA) do not function when the market does not clearly provide choices. Market interferences, such as allocations, would be arbitrary, unfair, and economically damaging to some parties, while rewarding others.

DEQ has suggested that the 2.7% oxygen content maximum limit for ethers could be raised. Although there is interest by some to raise the "substantially similar" level for ethers above this limit, we do not see any near term prospects for this happening. Such proceedings by EPA now will come under considerably more scrutiny than before, and will face more challenges relating to other pollutants. Test fleets will have to be much larger and testing programs be more defined and negotiated with various interest groups. We are unaware of any interest group that is planning such an effort at this time.

#### **CLEAN AIR ACT LIMITS TO STATE FUEL REGULATION AUTHORITY**

Based on the "attainment redesignation" strategy presented earlier, DEQ does not now need to pursue development and requirement of an oxygenated gasoline CO "contingency measure," since the aforementioned Oregon communities can demonstrate continuing compliance with the CO NAAQS without oxygenated gasoline. Under these circumstances, we believe that other provisions of the federal Clean Air Act also control a State's ability to mandate fuel requirements.



Federal Clean Air Act Section 211(m)(6) [42 USC 7545] pertaining to oxygenated gasoline provides that "Nothing in this subsection shall be interpreted as requiring an oxygenated gasoline program in an area which is in attainment for carbon monoxide, except that in a carbon monoxide nonattainment area which is redesignated as attainment for carbon monoxide, the requirements of this subsection shall remain in effect to the extent such program is necessary to maintain such standard thereafter in the area."

Compliance and continued maintenance of compliance with the CO NAAQS is being demonstrated without oxygenated gasoline.

Therefore, the proposed oxygenated gasoline contingency measure is unnecessary and in contradiction to federal law.

We further believe under these circumstances that federal Clean Air Act Section 211(c)(4)(C) [42 USC 7545] also circumscribes a State's fuel regulatory authority--i.e.,

"A State may prescribe and enforce, for purposes of motor vehicle emissions control, a control or prohibition respecting the use of a fuel or fuel additive in a motor vehicle or motor vehicle engine if an applicable implementation plan for such State under section 110 so provides. The Administrator may approve such provision in an implementation plan, or promulgate an implementation plan containing such a provision, only if he finds that the State control or prohibition is necessary to achieve the national primary or secondary air quality standard which the plan implements...."

Consequently, we believe it is a far reach of DEQ's authority to require any oxygenated gasoline contingency measure for these communities, as they are in "attainment" with the CO NAAQS and will remain so without oxygenated gasoline. These areas qualify for redesignation to attainment status, as provided for in the federal Clean Air Act.

#### ALTERNATE CONTINGENCY MEASURE

For Portland, where the existing motor vehicle inspection and maintenance program (MVIMP) has been an historic and effective part of the attainment strategy for the CO NAAQS, we believe this provides a better basis for a CO contingency measure, if one is truly needed.

EPA asserts that an effective MVIMP is the lowest cost and most effective control measure available to states to reduce in-use vehicular emissions, including CO. As an existing program is already in place in Portland (and must remain so, unless DEQ demonstrates satisfactorily that one is not necessary to maintain compliance with the ozone and carbon monoxide NAAQS), a graduated improvement of the stringency and effectiveness of the program would be a reasonably available CO "contingency measure."

Simply by increasing the "failure rates" or increasing the stringency of the "emission standards," the current MVIMP could be quickly and efficiently adjusted to improve in-use vehicular CO emissions by requiring more effective emission repairs to higher emitting vehicles. The incremental costs of such an adjustment would be small, based on EPA's judgments of the costs and effectiveness of the so-called "enhanced" inspection and maintenance program. CO emission reduction costs would be apportioned appropriately to only operators of those vehicles with the greatest excess CO emissions.

#### RECOMMENDATIONS

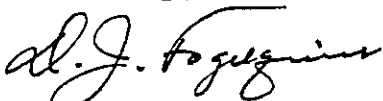
Oregon's communities of Portland, Grants Pass, Medford, and Klamath Falls are in compliance with the CO NAAQS, which was achieved by measures other than oxygenated gasoline. Due to the continuing effectiveness of the federal new car emissions standards program, and, in Portland, the MVIMP, compliance with the CO NAAQS will be sustained throughout the next decade.

There is no further need for mandating continued use of oxygenated gasoline, nor for imposing the additional fuel costs on Oregonians. There is no need for the proposed oxygenated gasoline "contingency measure," which would be ineffective in any case.

DEQ should, instead, be preparing a redesignation package and CO maintenance plans reflecting these conclusions for each of these communities, and be ready to submit this information to EPA as soon as possible.

WSPA stands prepared to assist DEQ in taking this approach because we believe this course of action is necessary and would economically benefit the aforementioned communities, with no loss of public health protection. We would like to meet with DEQ staff to discuss and develop this strategy further. Please contact me as soon as possible so we can arrange a mutually convenient working meeting.

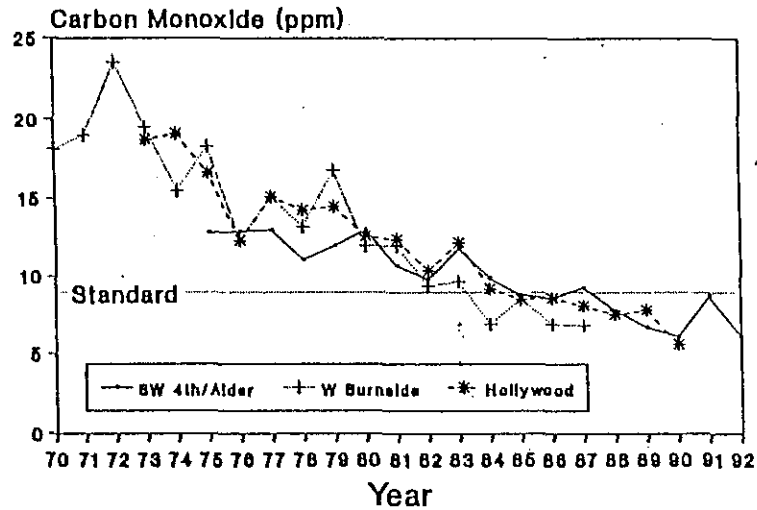
Sincerely,



cc: Steve Greenwood, Air Quality Division, DEQ  
Phillip G. Millam, EPA, Region X  
Mary Riveland, WA DOE  
Robert Elliot, SWAPCA  
John Burns, Miller, Nash

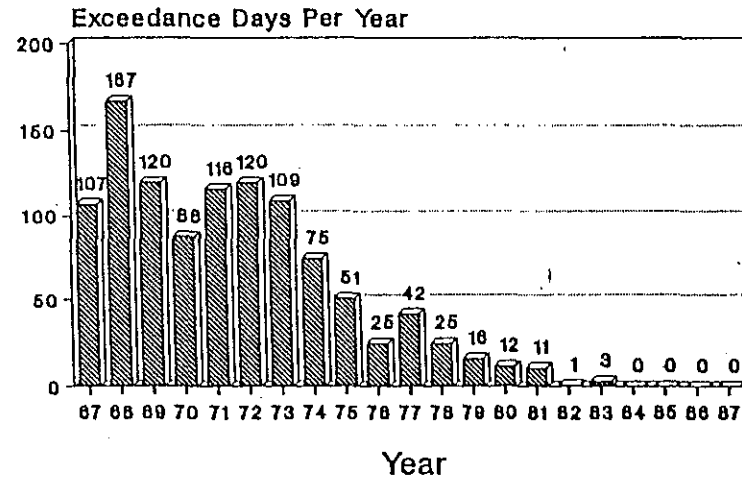
ORDEQOG2

### Portland Carbon Monoxide Trends



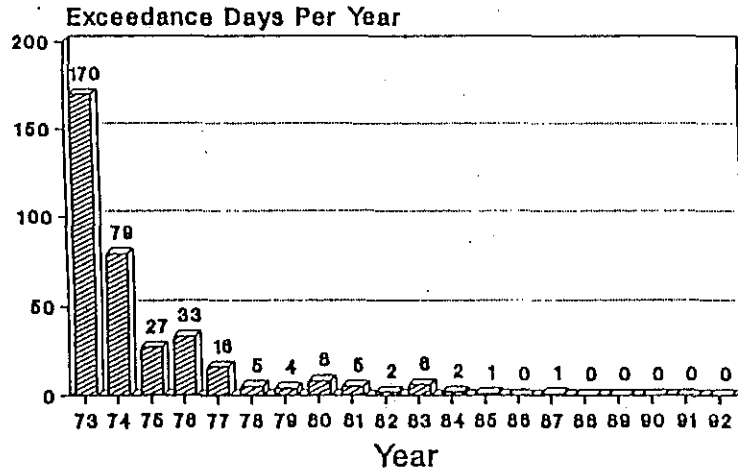
2nd Highest Day Per Year (8-hr avg)

### Portland Carbon Monoxide Violations At CAMS Site, 718 W. Burnside

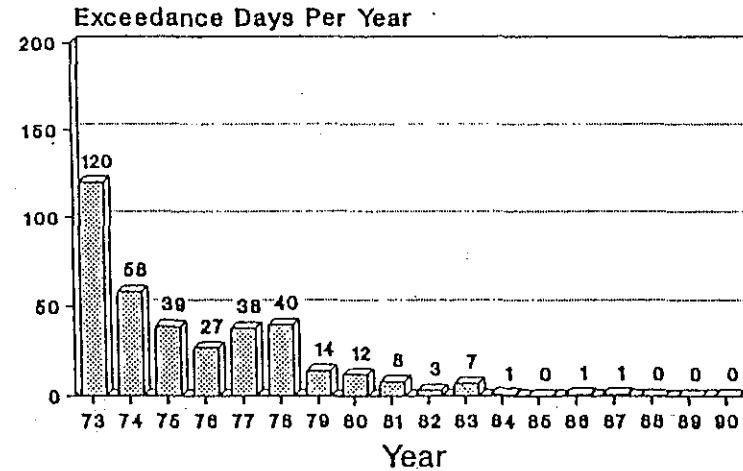


D-7

### Portland Carbon Monoxide Violations At S.W. Fourth & Alder Site



### Portland Carbon Monoxide Violations At Hollywood Site, N.E. 41st & Sandy



ATTACHMENT 1

TESTIMONY GIVEN AT OR DEQ PUBLIC HEARING, TUESDAY AUGUST 17TH

MY NAME IS STEVEN CROCKETT WITH BRITISH PETROLEUM OR BP. BP IS  
A MEMBER OF WSPA BUT TONIGHT <sup>MY</sup> COMMENTS REFLECT ONLY THE OPINION OF  
BP.

THESE COMMENTS ARE SPECIFICALLY RELATED TO THE RULEMAKING  
PROPOSAL - REVISIONS TO THE MOTOR VEHICLE FUEL SPECIFICATIONS FOR  
OXYGENATED GASOLINE EVEN THOUGH TODAY'S HEARINGS WILL INCLUDE  
COMMENTS ON THE REVISION OF THE STATE IMPLEMENTATION PLAN TO REFLECT  
CHANGES IN THE VEHICLE INSPECTION PROGRAM.

FIRST, MAY I SAY THAT I APPRECIATE THE TIME AND OPPORTUNITY TO  
MAKE COMMENT AND WOULD ENCOURAGE THE DEPARTMENT OF ENVIRONMENTAL  
QUALITY TO REVIEW AND CONSIDER THE VARIOUS OPTIONS THAT HAVE AND  
WILL BE PRESENTED BOTH HERE AND THROUGHOUT THE STATE AT THE OTHER  
PUBLIC HEARINGS BEING HELD.

MAY I SAY THAT I DO NOT SUPPORT THE PROPOSED RULEMAKING  
PROPOSAL TO PROVIDE A SOLUTION FOR THE STATE TO PROVIDE A CO  
CONTINGENCY PLAN. AS HAS BEEN STATED BEFORE, THERE ARE OTHER  
OPTIONS, ONES THAT I WOULD LIKE CONSIDERED THAT WILL STILL PROVIDE  
THE STATE WITH THE IMPROVED AIR QUALITY BUT ARE MORE WORKABLE FOR  
INDUSTRY AND IN TURN WILL PROVIDE A MORE COMPETITIVE ENVIRONMENT FOR  
INDUSTRY AND THEREFORE LOWER COST TO THE CONSUMERS.

I WOULD PROPOSE, FIRST THAT THE DEPARTMENT OF ENVIRONMENTAL QUALITY SPEEDILY STUDY, REVIEW AND REQUEST THAT THE EXISTING NON-ATTAINMENT AREAS BE RECLASSIFIED AS ATTAINMENT. NOTE, THEY HAVE BEEN IN ATTAINMENT FOR THE REQUIRED PERIOD EVEN WITHOUT THE OXYGENATED GASOLINE PROGRAM. IT IS DOUBTFUL THAT THE EPA WILL APPROVE THE RECLASSIFICATION BEFORE THEIR DUE DATE FOR THE CO CONTINGENCY PROGRAM. THEREFORE, I SUGGEST THAT THE STATE INDICATE TO THE EPA THAT THEY ARE IN THE PROCESS OF REVIEWING OPTIONS TO SUBMIT A CO CONTINGENCY PROGRAM BUT IN LIGHT OF THE REQUEST FOR RECLASSIFICATION THAT IT BE DELAYED UNTIL MAY 1994.

SECONDLY, SINCE THE PROPOSED RULEMAKING WILL MANDATE THAT ETHANOL BE USED EXCLUSIVELY IN GASOLINE DURING THE OXYGENATED GASOLINE SEASON IT WILL REMOVE MOST OF THE OPPORTUNITIES FOR COMPETITION. THEREFORE, I SUGGEST THAT THE DEPARTMENT OF ENVIRONMENTAL QUALITY RECONSIDER THE PROPOSED CO CONTINGENCY PLAN AND INVITE VARIOUS INDUSTRY REPRESENTATIVES TO PARTICIPATE IN AN ADVISORY COMMITTEE, SIMILAR TO THE OXYGENATED ADVISORY COMMITTEE.

NEXT, I WOULD LIKE DEQ TO CONSIDER THE FOLLOWING TWO OPTIONS BEFORE FINALIZING THEIR PROPOSAL:

- 1) DETERMINE THE NECESSARY REDUCTION OF CO TO MEET THE REQUIREMENTS FOR A CO CONTINGENCY PLAN. THEN LET THE VARIOUS INDUSTRY MEMBERS BOTH POINT SOURCE AND GASOLINE DISTRIBUTORS DETERMINE HOW THEY WILL REDUCE THAT AMOUNT OF CARBON MONOXIDE. FOR

EXAMPLE, ONE COMPANY MAY FEEL IT MORE ECONOMIC TO INCREASE THE OXYGENATE CONCENTRATION, ANOTHER MAY WANT TO BUY OXYGENATE CREDITS, ANOTHER MAY BUY UP AND DISPOSE OF OLD CARS, OR EVEN BUY UP, CONVERT OLDER WOOD STOVES TO CURRENT STANDARDS AND I AM SURE THAT THERE ARE OTHER OPTIONS. THIS TYPE OF OPTION PROVIDES A MULTIPLE OF OPTIONS FOR THE VARIOUS COMPANIES AND WILL REINTRODUCE THE COMPETITIVE ENVIRONMENT BACK INTO THE GASOLINE MARKET THAT WOULD BE REMOVED BY THE PROPOSED RULEMAKING. THIS PROPOSAL WOULD ULTIMATELY ACHIEVE THE GOALS OF THE STATE AND PROVIDE THE LOWEST COST TO THE CONSUMER AND YET LET THE RESPONSIBILITY OF THE CO REDUCTION METHOD BE UPON THE INDUSTRY, BASED UPON ECONOMIC CONDITIONS.

2) NEXT, AS YOU ARE AWARE, THE STATE HAS AN EVEN WORSE SITUATION FOR MAINTAINING THE OZONE STANDARDS. AS THE DEQ REVIEWS OPTIONS THAT WILL MEET THE STATE IMPLEMENTATION PLAN TO MAINTAIN OZONE ATTAINMENT, I PROPOSE THAT ANY OF THOSE OPTIONS, SUCH HAS AN EXPANDED VEHICLE INSPECTION AND MAINTENANCE PROGRAM OR AN ENHANCED VEHICLE INSPECTION AND MAINTENANCE PROGRAM, OR ANY OTHER OF MANY OPTIONS, BE INCLUDED AS CONTRIBUTING TO THE REDUCTION IN CO AND APPLY THEM TO THE CO CONTINGENCY PLAN.

IN SUMMARY, AS THE DEPARTMENT OF ENVIRONMENTAL QUALITY CONSIDERS ALL OF ITS PROPOSED OPTIONS, THERE ARE SEVERAL OPTIONS AVAILABLE WHICH WILL SATISFY THE ENVIRONMENTAL PROTECTION AGENCY'S REQUIREMENTS OF THE CLEAN AIR ACT AMENDMENT AND STILL PROVIDE A MARKET SITUATION WITHOUT RESTRICTING THE MARKETING MECHANISMS, OTHER

THAN MANDATING THE OXYGEN CONTENT, THAT WILL ULTIMATELY PROVIDE THE NECESSARY IMPROVED AIR QUALITY AND AT THE LOWEST COST TO THE STATE AND THE CONSUMERS.

BP IS COMMITTED TO ASSIST THE STATE IN THE DEVELOPMENT OF THE RULES AND RECONFIRMS OUR SUPPORT TO DEVELOP A WORKABLE RULES AND CO CONTINGENCY PLAN.

THANK YOU. I WOULD BE GLAD TO ANSWER ANY QUESTIONS THAT YOU MIGHT HAVE.

SGC/ORCMMT2

CC: JIM BURGOON  
DEL FOGELQUIST  
PAT PRESLEY  
PAUL OVES  
JOHN SHUHLER

# UNOCAL

August 13, 1993

Dennis W. Lamb  
Manager of Planning  
Planning and Services

Mr. William Wessinger  
121 S.W. Salmon, Suite 1100  
Portland, Or 97204

Dear Mr. Wessinger:

Unocal appreciates the opportunity to enter comments into the record regarding the rulemaking proposal-"Revisions to the Motor Vehicle Fuel Specifications for Oxygenated Gasoline." This proposal would raise the oxygen content in wintertime motor vehicle fuel from 2.7 wt. % to a minimum of 2.9 wt. % to meet the EPA contingency plan requirements in Oregon's four classified carbon monoxide non-attainment areas.

Unocal is an interested and affected party to this proposal because we market gasoline in each of the four areas. We are also a purchaser of oxygenates that would be required under this proposal.

In the attachments to this cover letter we will expand on the following issues:

- o We are greatly concerned that the DEQ has sought to minimize input from affected parties (such as Unocal) and has not seriously considered the input that has been provided.
- o What is the Problem?

We believe that the DEQ is inappropriately proposing a CO contingency measure for areas that already were in attainment prior to the introduction of oxygenated gasolines in the winter of 1992. The DEQ should focus on gaining re-classification from non-attainment to attainment at the earliest possible date. The basic oxygen program at 2.7 wt. % could then serve as a contingency plan.

- o Should the DEQ boost the oxygen content of motor vehicle fuel as a contingency plan for all four CO non-attainment areas?

We do not believe so. First of all, the areas should be reclassified as attainment and the oxygen program should be



dropped. Second, the proposal effectively eliminates a fuel supplier's choice of oxygenates. Third, a serious examination of other alternatives has not been done. Last, the unnecessary addition of oxygen to gasoline is adding about fifteen cents per gallon, (before state and federal subsidies) to the cost of gasoline. Consumer interests should be given much greater consideration.

- o Should adoption of the oxygenated fuel CO contingency plan be deferred until either 1) dual-blending of two or more oxygenates, or 2) the use of MTBE alone to achieve an oxygen content of 2.9 %, is approved by the EPA?

We could support such a proposal, but we would be doing so with "tongue-in-cheek". In fact, we do not think that either idea will be approved in the near future.

- o Should a commitment be made to pursue a subsequent SIP revision to the CO contingency plans to replace the oxygenated fuel requirement if sufficient alternatives become available prior to 1996?

This seems to assume adoption of the 2.9 oxygen measure. If so, we would certainly support such a commitment. We are convinced, however, that these efforts are misplaced and could be eliminated by dedicating the appropriate level of resources to re-classification.

In summary, Unocal opposes the potential increase in oxygen level as unnecessary, overly restrictive, and costly to consumers and the Oregon economy. Oregon's first priority should be to declare victory over the CO problem, apply for re-classification, and improve the Oregon economy by eliminating the costly oxy-fuels program.

Sincerely,



D.W. Lamb

cc: Fred Hansen DEQ  
Steve Greenwood DEQ  
Emery Castle EQC  
Henry Lorenzen EQC  
Carol Whipple EQC

Linda McMahan EQC  
Andrew Ginsburg  
Jacqueline Fern  
David Collier

UNOCAL IS GREATLY CONCERNED THAT DEQ HAS SOUGHT TO MINIMIZE INPUT FROM AFFECTED PARTIES (SUCH AS UNOCAL) AND HAS NOT SERIOUSLY CONSIDERED THE INPUT THAT HAS BEEN PROVIDED ON SHORT NOTICE.

On June 4, 1993 (after five p.m. on a Friday afternoon) Unocal was first informed by the DEQ that the CO contingency issue was under study. We were sent a copy of a letter from DEQ to an ARCO representative via fax (attachment 1.). The letter advised that "No action on your part is required, or expected at the present time." The Fax cover stated that "This material is being provided for your information and no response is necessary".

We immediately contacted DEQ and specified that this was an important issue to us, and that we had serious concerns regarding the impacts on our operations and compliance flexibility. A meeting of the former members of the disbanded Oregon Oxygenated Advisory Committee was subsequently scheduled.

The Committee attendees met with the DEQ on June 23, only a day or two after official notices and the agenda were received. That meeting was identified as "informational", to "review proposed changes" and to "brief" Committee members. This was clearly not an attempt to generate anything but consent and acceptance.

Committee attempts to propose and discuss variations and modifications to the proposal were treated by the DEQ with a closed mind. DEQ predetermined the course of action and attempted to minimize the discussion of alternatives.

We described our reasons for concern in a letter addressed to DEQ's Steve Greenwood (with a copy to Howard Harris) and suggested that an alternative currently under discussion in Arizona be investigated. At the June 23 meeting we suggested that another alternative be investigated which identifies high emitters through remote sensing. It is well documented that the mandatory repair of a few high-emitting vehicles can produce significant CO reductions. Such relationships are imbedded in EPA's Mobile 5.0a emissions model which is currently being used to determine SIP credits.

In a meeting with the DEQ's Fred Hansen on July 2, Unocal and other members of the oil industry suggested that re-classification should be the highest priority.

In a reply to Unocal dated July 30, our suggestions were rejected, and no mention is made of seeking immediate re-classification. The DEQ justifies rejection of the Arizona approach with a graph that depicts the results of Mobile 5.0a runs. However, the DEQ did not provide the inputs or outputs from those model runs. Without this background information, we are unable to duplicate or verify the DEQ's graph or conclusions.

It is well documented that the effects of certain measures can be significantly influenced not only by the input in themselves, but also by the assumption about the order of the inputs.

The DEQ also mentioned and rejected an expansion of Vehicle Inspection and Maintenance Program boundaries. However, that was not our suggestion. Conversely, the DEQ did not investigate nor respond to our recommended remote sensing/high emitter repair program intended not to expand boundaries, but to capture the very small number of vehicles causing significant CO emissions.

The DEQ staff has stated that such programs are premature. However, work done by many different parties (including recent joint work by the auto manufacturers and EPA) indicate that these programs are real, verifiable, and enforceable. The Environmental Research Consortium reports that 85% of newer U.S. automobiles driven under real world conditions have low emissions, and that the emissions from the remaining vehicles can be cut dramatically through repairs. The study also suggests that remote-sensing techniques may provide necessary data on the levels and types of vehicle exhaust, providing an alternative to expensive, intrusive and irregular state auto emission inspection programs. When problems in high-emitting vehicles were corrected, carbon monoxide emissions were reduced 94%. The consortium of the three U.S. automakers worked with the EPA and Michigan environmental officials to sample cars and light-duty trucks as they passed remote-sensing devices at two locations in southeast Michigan last fall. EPA operated one of the remote-sensing sites. Data from 47,000 vehicles collected. These programs are especially effective for CO programs, as they were initially developed for that purpose.

In rejecting alternative approaches, the DEQ did not provide any substantive technical material that supported the conclusions in the public notice and the briefing outline that was provided to the Oxygenate Advisory Committee.

#### WHAT IS THE PROBLEM?

The DEQ describes the problem as the need to adopt contingency measures for the CO non-attainment areas by November, 1993.

The DEQ also points out that CO emissions are on a downward trend in all areas, and there were no exceedances during 1992. It should be pointed out that Oregon areas have not experienced an exceedance for a number of years, and that the trend brought these areas into attainment irrespective of an oxygenated gasoline program. The 1992 numbers simply indicate a continuation of that trend.

The DEQ graphs for the Portland area, provided to the Advisory Committee and published in the DEQ's 1992 Annual Report on Oregon

Air Quality (attachment 2) indicate no exceedances since 1987. In fact, there were exceedances recorded in 1989 from a newly installed monitor. The uncertain results from this newly-installed monitor is the sole reason that the EPA-mandated oxygen program was required in Portland. The 1990 and 1991 seasons, however, continued the previous trend without exceedances, demonstrating that attainment was not dependent on the costly oxygen program forced on Oregon in 1992.

The trend lines are the same for each of the other areas. The DEQ's Annual Report for 1992 attributes the "excellent record for 1992" on traffic control, vehicle inspection and maintenance programs, the decline in older vehicles, and the federal Motor Vehicle Emissions Control Program. They state that an "oxy-fuels program...may have contributed to the low values seen in these cities". (emphasis added).

In Grants Pass, the DEQ attributes the significant decrease in levels of carbon monoxide levels to the completion of the new bridge over the Rogue river. The three-block wide by ten-block long CO non-attainment area of Grants Pass was created by a pre-bridge traffic bottleneck situation. While the bottleneck was mitigated by the new bridge, however, an oxy-fuel program was forced on the consumers of Grants Pass.

In Klamath Falls, the DEQ attributes CO reduction progress to the wood stove curtailment program. (The graph for Klamath Falls would seem to indicate a more gradual trend line. In fact, the more gradual slope is a function of fewer years on the x-axis, with a larger space between points on the trend line.)

The DEQ is spending much time and energy developing contingency plans, when the appropriate action is to reclassify these areas as attainment. These areas achieved attainment levels without oxygen additives yet Oregonians were forced to absorb the additional costs of oxygenates in gasoline. In a study completed for Washington State DOE that addressed the costs of oxygenates (100% ethanol), fuel suppliers provided cost data that averaged out at \$1.561 per gallon. Ethanol is used at a rate of 10% volume in gasoline, thus adding about 15 cents per gallon to the cost of the base gasoline. Oregonians provided a fifty cents per ethanol gallon subsidy to those costs on top of the fifty-four cents per gallon subsidy that ethanol has already provided by federal law. Cost that didn't reach the street were subsidized from Oregon's Road Improvement funds.

Attainment re-classification and elimination of the oxygen program would reduce these significant additional costs. Unocal is amazed at the debates that take place over increases in State and Federal Fuel Taxes, while more substantial cost pressures are adopted and then proposed to be increased without any significant discussion or effort to inform and involve the consuming public.

With re-classification, the oxy-fuels program at its original 2.7 wt. % level could become the contingency measure.

Unocal encourages the DEQ to take the necessary steps immediately to seek re-classification, and incorporate them in the November 15, 1993 SIP submission.

SHOULD DEQ BOOST THE OXYGEN CONTENT OF MOTOR FUEL AS A CONTINGENCY PLAN FOR ALL FOUR CO NON-ATTAINMENT AREAS?

In addition to the reasons already covered, the proposal has some serious, if unintended, impacts. The current oxy-fuels program requires an oxygen level of 2.7 weight percent. That level was not a scientific calculation by congress to achieve a certain CO reduction. It is in fact set at that level to provide competition among oxygenates. Oxygenates are generally ethers or alcohols. Ethers are allowed in gasoline by EPA rules up to 2.7 wt. %. The primary ether product is MTBE, although there are others now in use. The primary alcohol product is ethanol. Ethanol is allowed up to 3.5 wt. %. Any minimum requirement above 2.7 wt. % would eliminate competition from the ethers. Oregon proposes a 2.9 wt. %.

In 1992, because of the very generous subsidies, all suppliers opted to blend ethanol at 3.5 wt. %. If this situation continues, then the increase in the regulation triggered by exceedances would be an ineffective measure. However, circumstances have already changed. Oregon is eliminating their ethanol subsidy. Congress has acted to allow their ethanol subsidy at 2.7 wt.%. Economic choice is not so lopsided for the future, and ethers may be used by some suppliers or even become the economic oxygenate of choice and dominate the market. If an exceedance triggers an increase to 2.9 wt % under those conditions, then it becomes an ethanol-only mandate and increases the costs. The increased cost would not be the 2.7 to 2.9 increment, but the larger 2.7 to 3.5 increment, because the federal subsidy for ethanol is collected only at 2.7 and 3.5, not at 2.9. Unocal is a purchaser of oxygenates. We are very concerned about any situation in which competition is eliminated and one dominate supplier (specifically, the Archer Daniels Midland Company) could control the price of a mandated product.

The DEQ has suggested that suppliers could comply with a 2.9 requirement in several ways, including averaging ether and alcohol use or trading credits with other suppliers. Both suggestions are unworkable. Oxygenate selection is made on the basis of economics, logistics and other considerations. Mixed alcohols and ethers are only allowed up to the 2.7 wt. % limit. Therefore, a supplier would need to have two separate oxygenate systems in each area in order to provide both products to

average, or to change mid-season. The entire oxygenate monthly supply capacity cannot meet the winter monthly demands. Suppliers are forced to build inventories in the summer for the winter season. The DEQ's suggestion would require dual product storage capacity beyond existing facilities. Such facilities are not likely to be economic compared to single product systems, and in any case, are not likely to be permitted by local jurisdictions in any timely manner. A similar problem occurs with trading schemes. If one oxygenate (e.g. MTBE) is clearly more economical than the others, who will provide the higher oxygen credits? The DEQ has suggested that their proposal could stimulate the creation of the higher credits. A supplier could not plan on that basis, however, and allocation schemes have proven again and again to simply increase price beyond free market programs.

The DEQ admits that higher oxygenate levels "lock suppliers into ethanol". DEQ's concept of how fuel suppliers plan for oxygenate compliance is overly simplistic. Oxygenate neutrality was the key to the success of the oxygenate program in the entire United States during the 1992/93 season. Adoption of oxygenate regulations that heavily biases one oxygenate over another will have unintended and costly effects that are not always clear.

The 2.9 proposal is either an ineffective measure or a product mandate that benefits a large out-of-state company at the expense of Oregonians.

Unocal contends that the DEQ has not provided any serious examination of its own proposed alternatives, or those suggested by Unocal and others. Example, the DEQ summarily dismisses the internally-generated options of expanded Inspection and Maintenance boundaries and Employee Commute Options with a single sentence in the public notice:

"However, such measures would be time consuming and more controversial to develop than boosting oxygenated fuel, and would be time consuming and more controversial to develop, making it impossible to meet the Clean Air Act deadline."

Expanded I&M and other considerations deserve greater review with the public and impacted parties before they are dismissed out of hand.

SHOULD THE ADOPTION OF THE OXYGENATED FUEL CO CONTINGENCY PLAN BE DEFERRED UNTIL APPROVAL FROM THE EPA FOR EITHER DUAL-BLENDING OF TWO OR MORE OXYGENATES, OR THE USE OF MTBE ALONE TO ACHIEVE AN OXYGEN CONTENT OF 2.9%?

The DEQ deals with industry concerns about an ethanol mandate by stating that they have agreed to pursue "ending the EPA's current regulatory prohibition on dual-blending." Although the DEQ

identifies three options to pursue with EPA, the first two require the same action, that is, a change to EPA's "substantially similar" rules. Unocal does not believe these efforts have any prospect for success and has voiced that opinion on several occasions to DEQ. We are very familiar with the regulations that the DEQ seeks to change. These regulations have important background histories and are facing changing circumstance and requirements to conform with other more recently adopted rules and Clean Air Act requirements. Any attempt to increase the allowed levels of ether above 2.7 wt.% will be required to meet new hurdles with many new interest groups looking on. Increased oxygen levels have important considerations for auto manufacturers, pollution control district's concerned about NOx and ozone formation, and the new toxics and health related hurdles of the CAA section 211(b), concerning additive registration. In addition, new standards are being established regarding vehicle/fuel testing and reformulated gasoline. None of these issues existed when the original level of 2.7 was established. Unocal believes that it will take several years before any attempt would be successful. A successful attempt will not be based on a petition that does not include the results of a large, well designed, controlled vehicle emission test program.

The DEQ has also pursued an "enforcement discretion" concept with EPA. This concept would provide a way around the 2.7 limit for ethers by not enforcing the limit. Unocal has discussed this concept with EPA and believes it will be flatly rejected. According to EPA's Mary Smith, "enforcement discretion" only applies to individual circumstances in a potential violation. Unocal could not legally sell a 2.9 wt.% ether gasoline. Therefore, we would not sell a 2.9 wt. % ether gasoline even if Oregon provided its own enforcement discretion, because it would violate federal regulations.

While Unocal could support a delay in adoption of the proposal, we do not believe DEQ's requests have any chance of success.

SHOULD A COMMITMENT BE MADE TO PURSUE A SUBSEQUENT SIP REVISION TO THE CO CONTINGENCY PLANS TO REPLACE THE OXYGENATED FUEL REQUIREMENT IF SUFFICIENT ALTERNATIVES BECOME AVAILABLE PRIOR TO 1996?

From this question, is evident that the DEQ has predetermined the best course of action without public input. It assumes adoption of the oxygenated fuel option.

If the Environmental Quality Commission adopts that proposal, instead of directing the DEQ to seek re-classification, Unocal would most certainly welcome a commitment to reconsider.

## SUMMARY

Unocal opposes the CO contingency plan to increase the oxygen content of winter gasoline to 2.9 wt. % from 2.7 wt %. Areas that reached attainment levels prior to the introduction of oxygenated gasoline should be seeking re-classification and promulgate appropriate maintenance plans, not a continuation and expansion of a costly program. In considering alternative contingency measures, the DEQ has not investigated alternatives in any depth, or with any enthusiasm. The effort to change EPA rules is a "red herring" with only the appearance of attempting to provide flexibility to industry. The DEQ should now be well aware that those efforts will fail.

Unocal encourages the Environmental Quality Commission to reject the DEQ proposal and to direct them to prepare the re-classification petitions and maintenance plan proposals. We also encourage the Commission to direct the DEQ to open up the process to the public and affected parties in a timely manner, and with a good faith effort to craft win/win solutions.

Attachments





Pacific Gas Transmission Company

August 17, 1993

Mr. Howard Harris  
Department of Environmental Quality  
Air Quality Division  
811 S. W. 6th Avenue  
Portland, OR 97204

Re: Oregon Administrative Rule 340-22-440 through 660

Dear Mr. Harris:

Enclosed please find Pacific Gas Transmission Company's (PGT) comments on the Oregon Department of Environmental Quality Rule 340-22 - Revisions to the Motor Vehicle Fuel Specifications for Oxygenated Gasoline. The revisions, as currently proposed, do not address concerns PGT has regarding the requirement to restrict fuel dispensing to oxygenated fuel without regard for the quantity of throughput of wholesale producers-consumers. If you have questions regarding these comments, please contact Carmen T. Acton at (415) 973-6175.

Sincerely,

Leonard W. Hoops  
Manager, Planning & Regulatory

CTA:cam  
Enclosure

cc: Keith Tong, DEQ

RECEIVED  
AUG 23 1993

Air Quality  
Dept. Environmental Quality

D-21

bcc:	APBorgias	w/enclosure
	TJCusworth	w/enclosure
	DWLehman	w/enclosure
	DJLeonard	w/enclosure
	LCShidner	w/enclosure
	DHStitt	w/enclosure
	GLWalker	w/enclosure
	E&R File	w/enclosure
	Reading File	w/o enclosure

Pacific Gas Transmission Company (PGT) is a natural gas transmission company operating 799 miles of 42-inch and 36-inch high-pressure natural gas pipeline. PGT receives gas at the Canadian border for transportation to markets in the Pacific Northwest and California. Energy to move the gas is provided by 12 compressor stations located along the pipeline at intervals of approximately 50 miles.

PGT has reviewed the proposed revisions to the *motor vehicle fuel specifications for oxygenated gasoline* and supports the concept of the regulations, but has concerns over specific aspects of the rule.

#### Background

PGT has a small number of maintenance bases (base) from which its crews are dispatched daily to work at various compressor stations in the area. PGT has one maintenance base located in the Klamath Falls control area. A 2000 gallon gasoline tank is located at this base. This tank is used to fuel fleet vehicles, of which there are 15, and miscellaneous gas-operated equipment. Due to the distance between facilities and the nature of the work, vehicle fueling may occur at the base or anywhere along the route. Typically, vehicle operation within the control area is minimal.

The quantity of fuel dispensed from the gasoline tank varies throughout the year. However, the total quantity is small. In reviewing the gas-operated equipment, manufactures identified several (i.e., pressure washers, chain saws, and portable generators) which require non-oxygenated fuel. It is believed that the use of oxygenated fuel in this equipment results in a higher rate of burned piston heads.

PGT believes other businesses may have similar low throughput dispensing patterns and multi-uses for their fuel. The fact that these types of operations are not exempt from the oxygenated fuel requirement results in tracking, labeling, and refueling expenses that are overly onerous.

According to the regulations, as presently written, a wholesale purchaser-consumer with a 550 gallon or larger tank (regardless of throughput) intending to dispense fuel during the control period would have to either:

1) empty their tank(s) and purchase higher oxygenate fuel to offset the effect of dilution with residual fuel (according to manufacturer's data, a 2000 gallon tank pumped dry retains approximately 130 gallons of residue); or

2) empty and clean the tank

This presents an economic hardship for owners of low throughput tanks and could potentially result in a waste of fuel. In addition, extensive record-keeping and labeling requirements for what might only be one delivery during the control period is required.

#### Comments

The currently proposed revisions to OAR 340-22 do not address the issue of "wholesale purchaser-consumers" who have tanks of 550 gallons or greater but have low throughput. These wholesale purchaser-consumers represent an insignificant contribution to ambient carbon monoxide (CO) levels. Consequently, PGT recommends the Department of Environmental Quality (DEQ) consider the following definition for "wholesale purchaser-consumer":

*OAR 340-22-450 "Wholesale purchaser- consumer" means any organization that is an ultimate consumer of gasoline and which purchases or obtains gasoline from a supplier for use in motor vehicles and receives delivery of that product into a storage tank of at least 550 gallon capacity substantially under the control of that organization and dispenses at least 550 gallons per month.*

The requirement for a "wholesale purchaser-consumer" to label its dispenser is another area which DEQ should address. Typically a "wholesale purchaser-consumer" dispenses fuel only to its own vehicles (not the public). Requiring that these dispensers have special labeling seems excessive. PGT suggests DEQ consider the following language change:

*OAR 340-22-650 (1) A person who sells or markets oxygenated gasoline at retail, or who otherwise provides oxygenated gasoline for consumption by an ultimate consumer, except a wholesale purchaser- consumer,.....*

The record keeping requirement under OAR 340-22-560(5) should also be revised. Each control area responsible party (CAR) is required to provide a transfer document containing specific information to the recipient of fuel in control areas. The CAR should be responsible for ensuring the adequacy of the information provided. The wholesale purchaser-consumer should only be required to retain these documents during the control period and make them available for agency review upon request. The following language changes are suggested:

*OAR 340-33-560 (5) Retailers and ~~wholesale purchaser~~ consumers within the control area....*

*OAR 340-33-560 (6) Wholesale purchaser-consumers within the control area shall maintain the records provided by each CAR for the duration of the control period and should make these records available for Department inspection upon request.*

If you have any questions regarding these comments, please contact Carmen Acton at (415) 973-6175.

**DEPARTMENT EVALUATION OF PUBLIC COMMENT ON REVISIONS TO THE  
MOTOR VEHICLE FUEL SPECIFICATIONS FOR OXYGENATED GASOLINE**

1. P1,P2,P4  
**DEQ should focus on reclassifying CO nonattainment areas instead of spending time developing contingency measures.**

*Department Response*

Regardless of compliance data, an area must continue to meet EPA's nonattainment classification requirements until EPA redesignates the area to attainment. The Department has been working closely with the City of Portland over the last two years on a study to develop a long-range transportation management plan for the entire Central City Plan area. The study has involved several agencies and the private sector, as well, and is in its final stages of completion. The study will include long-range carbon monoxide (CO) emission projections which will in turn form the backbone of a CO maintenance plan.

The Department expects to submit to EPA a redesignation request and CO maintenance plan for the Portland area, in the fall of 1994. One of EPA's requirements for redesignation is a demonstration that an area has met and continues to meet all Section 110 and Part D requirements of the Clean Air Act Amendments of 1990. CO contingency plans are required by Part D and must be in place in order for a redesignation request to be potentially approvable. The Department has been proceeding on a parallel track to develop the required CO contingency plans and also advance the development of CO maintenance plans, starting first with the Portland area. Development of CO maintenance plans for the other three nonattainment areas needing CO contingency plans will be initiated as expeditiously as possible. This will require a coordinated effort with the Oregon Department of Transportation and the affected local governments.

In summary, CO contingency plans must necessarily precede CO redesignation requests.

2. P1,P2,P4,M2  
**Alternatives to meet CO contingency requirements were not sufficiently addressed.**

*Department Response*

EPA's CO contingency plan guidance suggests that states consider the following measures:

- a) Measures required by the next higher classification;
- b) Transportation control measures (sixteen measures are listed in the Clean Air Act in Section 108);

- c) An employer trip reduction program, also know as Employee Commute Options;
- d) Economic incentive programs, such as fee programs, tax code changes, subsidies and old car scrappage programs;
- e) a more stringent oxygenated fuels program than is statutorily required.

Candidate CO contingency measures need to meet the following general criteria in order to merit consideration:

- 1) Relatively quick to implement in order to meet EPA's criterion that the plan be effective within twelve months;
- 2) Ready to go without additional program development or state rulemaking/local ordinance adoptions;
- 3) Must be able to garner significant emission reductions within a 12-month period;
- 4) Must not require additional legislative authority;
- 5) Can be implemented without additional state funding.

The transportation control measures (TCMs) have a number of drawbacks as candidates for the CO contingency plan. Many of the TCMs listed in the Clean Air Act require a considerable degree of up-front planning development and also involve significant funding commitments that would be difficult to obtain on a contingency basis. Some, like High Occupancy Vehicle (HOV) lanes, would also be difficult to implement in a short period of time. Most TCMs also require two to four years to become fully effective. The last session of the state legislature effectively ruled out most of the economic incentive programs specifically mentioned by EPA in the CO contingency plan guidance. The Department asked the affected local governments for advice on TCMs that might have been initially overlooked. The relatively small population size of the Klamath Falls and Grants Pass areas, with no transit systems in place, made TCMs much less of a prospect for those areas. An examination of the candidate CO contingency measures against the above criteria eliminated all the measures, save an expansion of the existing vehicle inspection program boundaries in Portland and Medford, an ECO program and a boost in the required oxygen content of wintertime motor vehicle fuel.

3. P1,P2,P4,K1,K2  
**Raising oxygen content creates an ethanol mandate and will eliminate market competition for oxygenates.**

#### *Department Response*

The Department acknowledges that this is a concern. An averaging program with credits could reduce the amount of ethanol needed. The Department submitted a request to EPA to allow the use of MTBE at an oxygen content of 2.9%. However, EPA's response was negative in September 27th correspondence to the Department. The Department is also

proposing to modify the rule language that was the subject of public hearings so that, potentially, market competition would not be immediately affected by the triggering of CO contingency measures. Under the modified rule, oxygenates would initially be required to be blended at maximum EPA approved levels if an analysis of reported data from the previous season indicated that a 3.1% oxygen content by weight would have been achieved.

4. P1  
**Requiring higher oxygen content means higher prices to consumers.**

*Department Response*

The Department's economic analysis indicates that the cost to consumers could be in a range of three to seven cents higher for the 2.9% oxygenate level versus the currently required 2.7% level. Normal price fluctuations in the gasoline retail market have been as much as six cents in the last year.

5. P1,P4,K1  
**Oxy-fuels have not contributed to CO reductions or compliance with the CO NAAQS. Continuing the oxy-fuel program is in contradiction with federal law.**

*Department Response*

DEQ/consultants have projected long-term CO emissions for only the Portland area. Technically, those projections assumed that oxy-fuel would continue at a 2.7% level. The Department has asked the City of Portland to conduct a "worst case" projection of future CO emissions in the Central City. Such an analysis could be conducted with and without oxy-fuel to help determine the need for oxy-fuel.

Continuation of the oxy-fuel program does not contradict Clean Air Act requirements. At a minimum, oxy-fuel containing 2.7% oxygen content would have to be carried into a maintenance plan as a maintenance plan contingency element.

6. P1  
**It is unlikely that EPA will approve either modifications to the "substantially similar" rules or a waiver allowing use of MTBE with oxygen content of 2.9%.**

*Department Response*

The EPA did respond negatively to the Department's requests for modifications to the "substantially similar" rule and for a waiver allowing use of MTBE at an oxygen content level of 2.9%. However, the current proposed CO contingency measure ensures that industry has as much flexibility as is legally possible for meeting necessary CO emission reductions should contingency plans be triggered.



7.

P2

**Advisory Committee recommended.**

*Department Response*

The former Oxygenated Gasoline Advisory Committee was called together again specifically to be briefed on the proposed housekeeping changes to the Oxygenated Gasoline Rules and carbon monoxide contingency plan issues. Prior to the meeting with members of the old committee, the Department had contacted and briefed all the affected local governments/Metropolitan Planning Organizations (MPOs). With the exception of the Klamath Falls area, local government (City of Grants Pass) and MPOs (Rogue Valley Council of Governments in the Medford area and Metro in the Portland area) are officially designated lead agencies for the development of transportation-related control programs required by the Clean Air Act. There was an early consensus among these planning organizations to pursue a boost in the level of wintertime oxygenated fuel as the CO contingency strategy. There have been subsequent meetings with Western States Petroleum Association to discuss options. The Department would seek to form an advisory group if it becomes impossible to adopt a contingency plan within the Clean Air Act deadline and such a group appeared to be necessary to develop an approvable strategy.

8.

K1,K2

**Wide use of clear gas within control area in Klamath Falls counteracted benefits of oxy-fuel.**

*Department Response*

The potential use of non-oxygenated gasoline within the nonattainment area was a key consideration when establishing the oxy-fuel control area boundaries. The Department expected that some citizens would purchase clear gas at retailers outside the control area boundaries, for use within the control area. Since the number and size of these retailers is relatively small, it is unlikely that the amount of clear gas purchased could offset the positive effects of oxygenated fuel. This premise is supported by records submitted by Control Area Responsible Parties (CARs) for the 1992-93 season, which indicate that the vast majority of fuel used within the control area was oxygenated.

9.

K3

**Oxy-fuel rules create economic hardship and place other unnecessary requirements on wholesale purchaser-consumers with "low throughput."**

*Department Response*

As stated in §211(m)(2) of the 1990 Clean Air Act the requirement for oxygenated fuel in CO nonattainment areas applies to "any gasoline sold, or dispensed, to the ultimate consumer in the carbon monoxide nonattainment area or sold or dispensed directly or

indirectly by fuel refiners or marketers to persons who sell or dispense to the ultimate consumers,..." This precludes an exemption for all wholesale purchaser-consumers, regardless of throughput levels.

10.

P4

**DEQ's reasoning for requiring an oxygen content of 2.9% may be fallacious.**

*Department Response*

Current federal and state regulations require an oxygen content of 2.7% in wintertime motor vehicle fuel used in moderate CO nonattainment areas. Because of tax subsidies most of the oxygenated fuel supplied in Oregon last winter contained 3.5% oxygen content. The Department acknowledges that tax subsidies may encourage the continued supply of oxy-fuel with an oxygen content at 2.9% or above. However, this is not guaranteed. In order for CO contingency plans to be approved by the EPA, they must achieve CO emission reductions above what is achievable under current regulations. Requiring 2.9% oxygen content will ensure that these additional reductions are achieved even if oxygenated fuel is supplied at the minimum required oxygen content of 2.7%.

DEQ recognizes that the 2.9% contingency could be a "paper" strategy. This issue has been discussed with EPA, and DEQ's understanding is that EPA will credit a 2.9% strategy because the current Oregon rule mandate is 2.7%.

**GENERAL COMMENTS ON OREGON'S OXYGENATED FUEL REGULATIONS**

1.

M2

Since oxy-fuels may add to ozone pollution problems, DEQ should amend rulemaking proposal to either preclude or discourage the use of oxy-fuels during the summer months.

*Department Response*

The EPA currently does not prohibit the use of oxy-fuels during the summer months. According to §211(c)(4)(A) of the 1990 Clean Air Act, States cannot regulate the use of oxy-fuels during the summer months unless the EPA has deemed it necessary and has published this finding in the Federal Register.

2.

K1

Department should pursue waiver from oxygenated fuel rules for Klamath Falls. EPA has granted such an exclusion for Syracuse, New York.

*Department Response*

According to EPA, Syracuse, NY was allowed to drop their oxy-fuel program because New York has applied for redesignation of the affected CO nonattainment area. There are several other states which have approved oxy-fuel programs but have not implemented them because they are in the process of applying for redesignation. Waivers from oxy-fuel regulations may also be granted to areas in which oxy-fuels are shown to contribute to compliance problems with another standard. For example, Salt Lake City, Utah received a waiver from the oxy-fuel regulations pursuant to §211(m) of the Clean Air Act Amendments of 1990. This section allows an exemption if the use of oxy-fuels inhibits compliance with another standard (in this case, PM<sub>10</sub>).

A waiver in accordance with §211(m) of the Clean Air Act could be granted only with sufficient evidence that Klamath Falls is at jeopardy of violating other air quality standards as a result of the oxy-fuel program. Based on air quality data, it does not appear that oxy-fuel creates this problem in Klamath Falls.

3.

K3

Manufacturers have identified specific gas-operated equipment which requires non-oxygenated fuel. If oxy-fuels are used in this equipment it may result in a "higher rate of burned piston heads."

*Department Response*

The oxy-fuel rules apply only to motor vehicles. Equipment which does not fall under EPA's definition of "motor vehicle" may operate with clear gasoline.

## ATTACHMENT F

### DETAILED CHANGES TO ORIGINAL RULEMAKING PROPOSAL MADE IN RESPONSE TO PUBLIC COMMENT

The originally proposed CO contingency measure language specified an increase in oxygen content from 2.7% to 2.9% as the sole provision to achieve required emission reductions. In response to public comment, the Department has modified proposed rule OAR 340-22-660, "Contingency Provision for Carbon Monoxide Nonattainment Areas" in the Motor Vehicle Fuel Specifications for Oxygenated Gasoline regulations to incorporate the following changes:

- 1) Allow development of equivalent alternative CO contingency measures which could replace the proposed requirement for meeting an oxygen content of 2.9%;
- 2) Instead of requiring a minimum average oxygen content of 2.9%, require that oxy-fuel be supplied at maximum EPA approved oxygen content levels and allow a market-based approach to achieve this level. Require a minimum average oxygen content of 2.9% if, in subsequent control periods after the CO contingency plan is triggered, the Department projects that an average control area oxygen content of less than 3.1% will occur in the next control season.

The following rule language shows the revisions made to the Department's original proposal to incorporate the changes above. In order for the Department to adequately project average oxygen content levels for subsequent control periods, OAR 340-22-570 has also been modified. This rule will require more frequent reporting of supplied oxygenate information if the CO contingency provision is triggered.

It should be noted that in order for alternative or substitute provisions (OAR 340-22-660(2)) to be implemented, they must be approved by the EPA as a SIP revision.

Contingency Provision for Carbon Monoxide Nonattainment Areas

340-22-660 This rule applies to OAR 340-22-440 through 340-22-650.

(1) Subsections (a), (b), and (c) of [F]this rule appl[ies]y to OAR 340-22-440 through 340-22-650.

(a) Upon determination by the Department, or written notification to the Department by the EPA Administrator that a carbon monoxide nonattainment area in a control area, as specified in OAR 340-22-470, fails to meet an applicable Clean Air Act deadline for attainment of the NAAQS for carbon monoxide, the following provisions shall become applicable in such control areas within eight months of written notification by the Department or the EPA Administrator, whichever is sooner:

~~[(a)A]~~ ~~[The average oxygen content standard of gasoline shall be increased to a minimum of 2.9%]~~ Oxygenated gasoline shall be supplied at maximum EPA approved oxygen content levels during the control period (e.g. 3.5% for gasoline oxygenated with ethanol and 2.7% for gasoline oxygenated with MTBE;

~~[(b)]~~ ~~[The oxygen content of gasoline supplied on a per gallon basis shall be increased to a minimum of 2.9%; and]~~

~~[(e)B]~~ Compliance calculations shall be based on the per gallon oxygen content supplied by each CAR or blender CAR during the control period.

(b) At the end of each control period during which fuel meeting requirements of section (1)(a) of this rule is supplied, the Department will evaluate control area oxygenate mix information which is submitted by CARs and blender CARs in accordance with OAR 340-22-570. If the Department projects, based on this data, that the average oxygen content of gasoline supplied in a control area will be less than 3.1% in the next control season, the Department shall notify affected parties no later than March 1 and the following additional requirements shall become effective in subsequent control periods:

(A) The average oxygen content standard of gasoline for CARs or blender CARs using the Average Oxygen Content Standard Compliance Option, shall be increased to a minimum of 2.9%;

(B) The oxygen content standard of gasoline for CARs and blender CARs using the Per Gallon Oxygen Content Standard Compliance Option, shall be increased to a minimum of 2.9%;

**(C) Compliance calculations and the calculation of oxygen content units, where applicable, shall be based on an oxygen content of 2.9%.**

~~(2)c~~ Federal standards for percent by volume oxygenate content may not be exceeded and shall not be affected by any requirement under subsection (1) of this rule;

~~(3)d~~ This rule shall be applicable during the control period specified in OAR 340-22-460(2).

[NOTE: Rule sections affected by this provision include: OAR 340-22-450(22); OAR 340-22-500(1); OAR 340-22-500(2); OAR 340-22-510(1); OAR 340-22-510(3)(a)(B); OAR 340-22-520(1)(a); OAR 340-22-520(2)(a); and OAR 340-22-640(8)(e).]

**(2) The Department may authorize the implementation of an equivalent alternative program to achieve necessary carbon monoxide emission reductions as a substitute for measures outlined in sections (1)(a)(A), (B), and (C) of this rule. An alternative carbon monoxide contingency plan which is authorized by the Department shall not become effective until approved by the EPA as a SIP revision.**

## Reporting

### 340-22-~~560~~570

- (1) Each CAR or blender CAR shall submit a report for each control period defined in OAR 340-22-~~480~~460(2), reflecting the compliance information detailed in OAR 340-22-500 or OAR 340-22-510, as applicable. Reports are due to the Department on the 30th of the month following the close of the control period for which the information is required. Reports must be filed on forms provided by the Department.
- (2) If the CO Contingency Provision, as specified in OAR 340-22-660, is triggered, each CAR or blender CAR shall submit the information described in section (1) of this rule after the first half of the control period and at the end of the control period. Reports are due to the Department on the 30th day of the month following the end of each two month segment of the control period.
- (~~2~~3) Each time that physical custody or title of gasoline destined for a control area is transferred, except when gasoline is sold or dispensed for use in motor vehicles at a retail outlet or wholesale purchaser-consumer facility, the transferor shall provide to the transferee, in addition to, or as part of, normal bills of lading or invoices, a transfer document containing information on the shipment. The transfer document must accompany every shipment of gasoline to a control area after it has been dispensed by a terminal, or the information must be included in the normal paperwork that accompanies each shipment of gasoline. The information must legibly and conspicuously contain the following information:
  - (a) the date of the transfer;
  - (b) the name, address and CAR or blender CAR identification number, if applicable of the transferor;
  - (c) the name, address and CAR or blender CAR identification number, if applicable, of the transferee;
  - (d) the volume of gasoline being transferred;
  - (e) the proper identification of the gasoline as non-oxygenated or oxygenated;
  - (f) the location of the gasoline at the time of the transfer;
  - (g) the type of oxygenate and purity;

- (h) the percentage by volume, to the nearest 0.1 percent, of oxygenate in the fuel;  
and
- (i) for gasoline in the gasoline distribution network between the refinery or import facility and the covered area terminal, the oxygen content by weight and the oxygenate volume of the gasoline.



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State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal  
for  
Revisions to the Motor Vehicle Fuel Specifications for Oxygenated Gasoline

Rule Implementation Plan

**Summary of the Proposed Rule**

This proposal would require oxy-fuel to be supplied at maximum approved oxygen contents to meet EPA contingency plan requirements if an affected CO nonattainment area fails to meet federal CO standards by the December 31, 1995 Clean Air Act deadline. (The affected CO nonattainment areas include Portland, Grants Pass, Medford and Klamath Falls.) After the CO contingency provision is triggered, the Department will review reported volumes of oxygenate supplied to the control area, to project whether a target average control area oxygen content of 3.1% would be achieved in subsequent control seasons. If this projected oxygen content is less than 3.1%, a minimum 2.9% oxygenate level would be required of individual suppliers in subsequent control seasons.

In addition to the CO contingency plan, the rule also contains housekeeping changes to clarify and improve the organization of the oxy-fuel regulations to minimize misinterpretation and to explicitly define the scope of applicability.

**Proposed Effective Date of the Rule**

Effective upon filing with the Secretary of State

**Proposal for Notification of Affected Persons**

If any of the above identified four CO nonattainment areas fail to meet applicable standards by the December 31, 1995 Clean Air Act deadline, implementation of the contingency provision would be formally triggered by written notification to the Department from the EPA. EPA is legally required to make such notification within six months of the end of calendar year 1995. A letter of notification from EPA could be received as early as March

1996 which would be followed by publication in the Federal Register. The Department would have a complete set of validated CO monitoring data from the 1995 calendar year for each monitoring site available by the end of February 1996. If violations of the CO standard occurred in any of the four nonattainment areas during 1995, the Department would notify the affected gasoline suppliers in order to give as much lead time as possible to implement contingency measures for the 1996-1997 carbon monoxide season. Oxygenated fuel suppliers will be provided at least eight months to implement CO contingency plans from the time notification is received from the Department or from EPA, whichever is sooner. The Department would expect to notify suppliers no later than March 1 in order to ensure that oxygenated fuel is supplied for the entire winter CO season. If standard violations occur in early 1994 or early 1995, then the above implementation schedule would be accelerated accordingly.

At the end of each two month segment of the control period, the Department will track industry reports on oxygenates supplied to the control area to determine whether the projected average oxygen content is at least 3.1%. If the calculated average oxygen content for the control area of concern is less than 3.1%, the Department will notify affected parties by no later than March 1 that a minimum average oxygen content of 2.9% will be required for subsequent control periods.

### **Proposed Implementing Actions**

As part of the implementation strategy for these proposed rule modifications, the Department will take the following actions:

- Provide ample notification to industry that the CO contingency provision will be triggered, and if and when applicable, that a mandatory 2.9% average oxygen content level is to be implemented. This notification will occur pursuant to the process outlined in the above section.
- If an alternative measure is submitted by the oil industry, initiate the process for EPA approval in a timely manner and notify affected parties of EPA's response.
- Notify oil industry if substitute CO contingency measures become available.

Industry will be required to take the following actions as part of this implementation strategy:

- Continue to comply with existing oxygenated fuel rules until CO contingency provision is triggered.
- If a CO contingency plan is triggered in any of the affected nonattainment areas, ensure that all affected parties are aware of modifications to the oxygenated fuel rules and are prepared to supply gasoline blended with oxygenates at maximum EPA

approved oxygen content levels within eight months. If and when applicable, ensure that all affected parties can achieve a minimum average oxygen content of 2.9%.

- If applicable, ensure that all affected parties are prepared to implement substitute or alternative measures which will be used to meet CO contingency plan requirements in place of the existing requirement.
- Beginning in the season when the CO contingency plan is triggered, track and report the types of oxygenates supplied and the percentage each of these comprise of the total volume of oxygenates supplied to the control area. Report this information at mid-season and again at the end of the control period.

### **Proposed Training/Assistance Actions**

Existing procedures for implementing the Motor Vehicle Fuel Specifications for Oxygenated Gasoline are sufficient. No additional training or technical assistance will be necessary.

**ATTACHMENT I**

**OTHER SUPPORTING DOCUMENTS**



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
AIR AND RADIATION

SEP 27 1993

Mr. Fred Hansen, Director  
Oregon Department of Environmental Quality  
811 SW Sixth Avenue  
Portland, OR 97204-5696

Dear Mr. Hansen:

Thank you for July 6, 1993 letter on the subject of Oregon's proposed Carbon Monoxide Contingency Plan. In your letter, you expressed concern that the proposed plan conflicts with EPA's interpretation of the "substantially similar" rule for oxygenated gasoline.

Specifically, Oregon DEQ is proposing a plan that, when triggered by EPA's finding of CO noncompliance, would raise the minimum oxygen content of gasoline from 2.7% to 2.9% by weight. You state that it is important to the plan that MTBE, ETBE, and other oxygenates be allowed to be blended with ethanol to meet the 2.9% standard. Your letter identifies several options including a "waiver" under section 211(f)(4), a petition for a change in the "substantially similar" rule issued under section 211(f)(1), and a request that EPA exercise its enforcement discretion to allow fuel blends violating the "substantially similar" standard for areas covered by Oregon's contingency plan.

Although it is possible to petition EPA for a waiver under section 211(f)(4), this option would require that the waiver applicant establish that the fuel or fuel additive or specified concentration thereof does not cause or contribute to the failure of emissions standards. Therefore, in order to secure a waiver, the petitioner would be required to perform substantial (and potentially expensive) testing in accordance with Federal Test Procedures (FTP). EPA's processing of a waiver request may take up to 180 days.

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
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Another option you mention in your letter is to petition EPA for a change in its "substantially similar" rule under section 211(f)(1). Changing the EPA's "substantially similar" ruling is a major undertaking and would likely take at least 18 months. In fact, EPA has only amended the definition of "substantially similar" once since 1981.<sup>1</sup> Furthermore, it is unlikely that there is sufficient data currently available about 2.9% blends of MTBE/ETBE with ethanol to take such an action. Hence, a petition to change the "substantially similar" definition would also have to be supported by substantial and potentially expensive data in accordance with FTP.

Finally, you ask that EPA exercise its enforcement discretion in order to allow blends that violate the "substantially similar" standard within Oregon CO nonattainment areas triggering the contingency plan. It would be inappropriate for EPA to exercise enforcement discretion in the way that you suggest. Normally, EPA would exercise its discretion on a case-by-case basis and under unusual circumstances. Moreover, other options are available as discussed above and below.

The State of Oregon has other options available to implement an oxygenated gasoline program requiring 2.9% oxygen by weight which allows the legal participation of oxygenates other than ethanol in the marketplace. For example, a state may choose to implement a oxygenated gasoline credit program similar to the type of program outlined in EPA's credit program guidelines.<sup>2</sup> This credit program could, for example, require that gasoline sold within specified control areas contain an average of 2.9% oxygen by weight and may also specify a minimum oxygen content by weight for each gallon of gasoline (e.g. a 2.0% or 2.7% minimum). Such a credit program would allow compliance with both state and Federal requirements.

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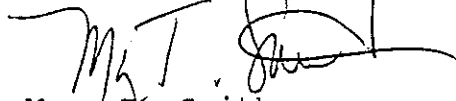
<sup>1</sup> See "Regulation of Fuels and Fuel Additives; Definition of Substantially Similar," 56 FR 5352 (February 11, 1991). See also the "original substantially similar ruling," "Fuels and Fuel Additives; Revised Definition of Substantially Similar," 46 FR 36582 (July 28, 1981).

<sup>2</sup> See "Guidelines for Oxygenated Gasoline Credit Programs under Section 211(m) of the Clean Air Act as Amended," U.S. EPA, Office of Mobile Sources, Field Operations and Support Division (October 20, 1992).



I hope that this information is helpful to you. Please feel free to contact me or David J. Kortum of my staff at (202) 233-9022 if you require further information or assistance.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'M. E. Smith', written over the typed name.

Mary E. Smith  
Director

Field Operations and Support Division

# THE TITLE V UMBRELLA

## Today's Adoption

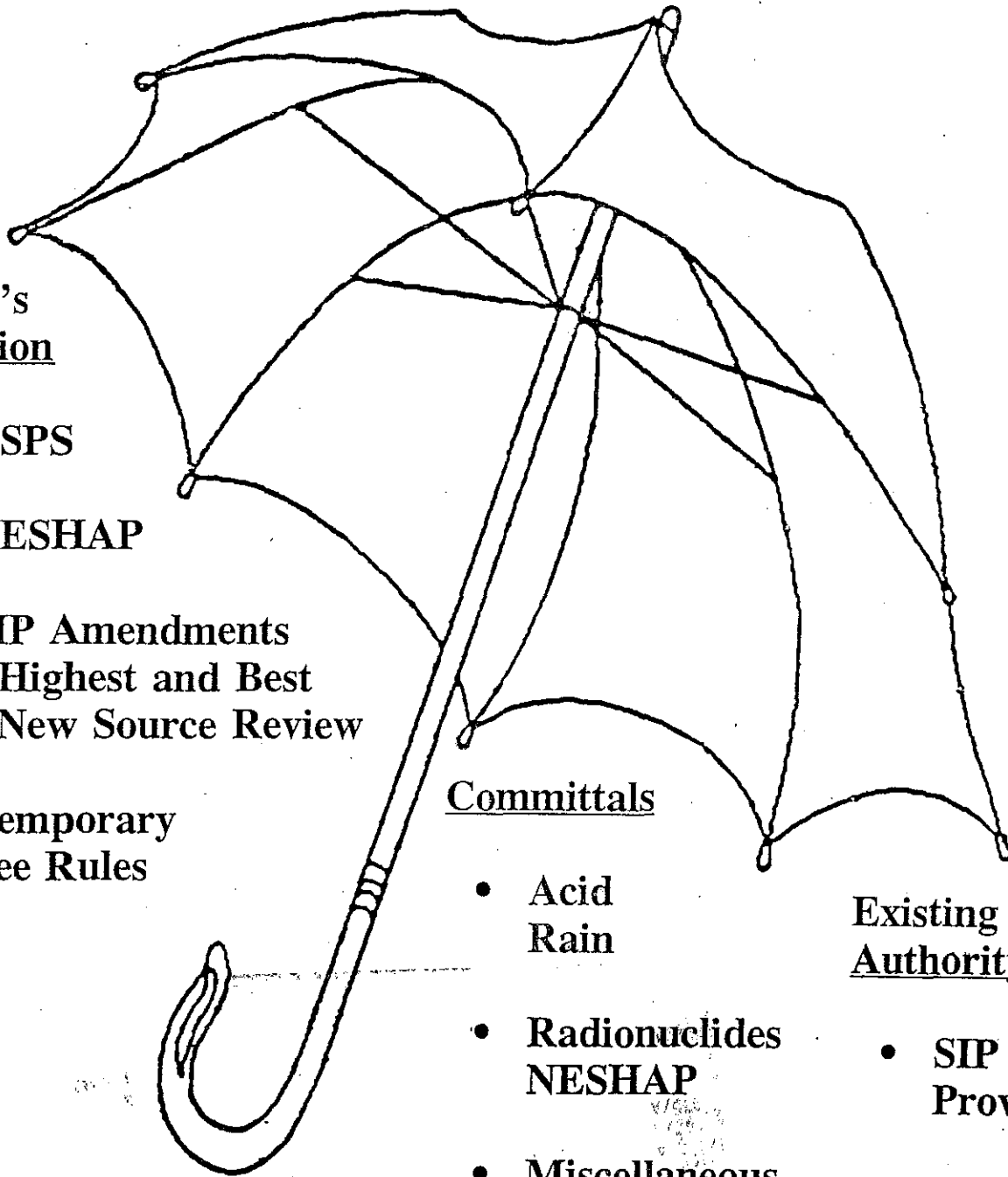
- NSPS
- NESHAP
- SIP Amendments  
Highest and Best  
New Source Review
- Temporary  
Fee Rules

## Committals

- Acid  
Rain
- Radionuclides  
NESHAP
- Miscellaneous  
Other

## Existing Authority

- SIP  
Provisions
- Prior  
Permit  
Terms



ESTACADA  
OREGON CITY  
CLACKAMAS  
OREGON CITY  
ESTACADA  
EAGLE CREEK  
MOLALLA  
BORING  
TACOMA

OREGON ENVIRONMENTAL QUALITY COMMISSION  
OCTOBER 29, 1993 MEETING  
AGENDA ITEM D  
REVISIONS TO THE MOTOR VEHICLE FUEL SPECIFICATIONS  
FOR OXYGENATED GASOLINE

COMMENTS BY THE WESTERN STATES PETROLEUM ASSOCIATION

My name is Dennis Lamb. I am Manager of Planning for Unocal. Today I am representing the Western States Petroleum Association (WSPA).

WSPA's members produce, refine, and market the majority of the petroleum products sold in Oregon and the other western states, and as such, are directly impacted by the CO contingency measure being considered today.

As we meet today USEPA Administrator Browner is testifying before the U.S. House of Representatives Subcommittee on Oversight and Investigations of the Committee on Energy and Commerce. The Chairman of that Subcommittee, Representative John Dingell, has asked her to explain why no action has yet been taken on the eleven CO nonattainment areas that have applied for reclassification.

Congressman Dingell recognizes that those areas that are classified nonattainment but have met the air quality criteria for attainment should be expeditiously reclassified. Administrator Browner is being asked to explain the impact on those areas as the oxygenated fuel season is beginning.

Oregon's Carbon Monoxide nonattainment areas are among those areas meeting the air quality criteria for reclassification. In Portland, Grants Pass, and Klamath Falls the air quality criteria was met without oxygenated fuels. Despite that fact, Oregon went forward with the federally mandated oxygenated fuel program last year. The costs of that program are, and continue to be, significant.

In a study conducted by the Washington State Department of Ecology the per gallon costs for oxygenates were estimated to exceed \$1.50. When added to gasoline at a 10% blend rate the incremental costs were 15 cents. Over 10 cents of that was absorbed by the Oregon and Federal ethanol subsidies and was hidden from the consumer. Oregon has eliminated their 5 cent per gallon subsidy but the Federal portion remains in effect. Although hidden, the costs are real and a horrible waste when not needed to reach attainment. Washington State estimated the total costs of its program was over one hundred million dollars (\$100,000,000.00).

A year and one half has passed since Oregon had sufficient data to justify reclassification for Portland, Grants Pass, and Klamath Falls. During that time eleven other areas have completed the necessary work and made the appropriate submissions to EPA. At least two areas have even suspended their programs for this winter in anticipation of approval (Cleveland and Boston).

In Oregon, however, we find ourselves entering into another costly oxygenated fuel season. WSPA has encouraged The Department of Environmental Quality to expedite the reclassification effort. Oregon should declare victory over the Carbon Monoxide problem and abandon the oxygenated fuels program except perhaps as a contingency measure in the maintenance plan. Oregon can then enjoy some benefit to her economy instead of suffering a significant flow of dollars to out of state oxygenate producers.

Today, however, we are here to consider a contingency plan that all parties acknowledge has a very low chance of being triggered to back up the oxygenated fuels program that isn't needed to meet attainment criteria.

WSPA has participated in the process of developing the proposal that is before you today. We have had serious concerns about earlier proposals because they could have resulted in the elimination of competition among oxygenates. The present proposal doesn't seem to satisfy anyone entirely and therefore, as is often said, it must be a well balanced solution.

WSPA supports the recommendation by DEQ staff because it does represent an effort to balance concerns and you are faced with the necessity of adopting some contingency measure to meet the November 15 EPA deadline.

The recommendation will allow for competition among oxygenates in the event the measure is triggered. That is important to WSPA members as purchasers of oxygenates and equally important to Oregon consumers. Although there is the appearance of some risk, or gap in the design of the measure, we urge you to consider that it is unlikely it will be triggered at all, the areas should be reclassified soon (eliminating the need for this measure), and it represents a serious effort to consider the objectives of all stakeholders.

WSPA further recommends that the Environmental Quality Commission establish milestones to be met by DEQ that will result in reclassification of all nonattainment areas in Oregon and the elimination of the oxygenated fuels program for the 1994/95 season.



Charles T Walz  
Vice President  
Refining

Texaco Refining  
and Marketing Inc

10 Universal City Plaza  
Suite 1440  
Universal City CA 91608  
818 505 2641

October 20, 1993

Mr. William Wessinger, Chairman  
Oregon Environmental Quality Commission  
811 S.W. 6th Avenue  
Portland, OR 97204

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
**RECEIVED**  
OCT 28 1993

OFFICE OF THE DIRECTOR

**SUBJECT: DEQ-Proposed Contingency Provision for Carbon Monoxide  
"Nonattainment Areas"**

Dear Mr. Chairman and Members of the Commission:

It is our understanding that at your October 29, 1993 meeting, staff of the Department of Environmental Quality (DEQ) will recommend that your Commission approve the Proposed Contingency Provision for Carbon Monoxide Nonattainment Areas.

*We believe there is no legitimate reason for your Commission to take such an action.*  
The DEQ proposal is superfluous, its "development" by DEQ has further delayed timely submission of a "redesignation package" to EPA, and its adoption would demonstrate needless, costly regulatory excess.

#### STATUTORY BACKGROUND

The federal Clean Air Act and its 1990 Amendments [42 USC Section 7401 et seq.--"the Act"] sets forth requirements for areas which exceed the carbon monoxide national ambient air quality standard (CO NAAQS) [i.e., "nonattainment plans"], and sets forth other, different requirements for areas that have attained and are maintaining compliance with the standard [i.e., "attainment" or maintenance plans].

When an area achieves compliance with the CO NAAQS, the Act directs a State to seek "redesignation" from "nonattainment" status to "attainment" status. As part of the redesignation process, a "maintenance plan" is required which demonstrates how continued compliance with the CO NAAQS will be maintained over a ten-year period.

The Act requires "nonattainment plans" to incorporate provisions such that when implemented emission control measures of the plan bring the area into compliance in the future ("attainment"), there are reserve measures which can bring about additional CO emission reductions if the performance of the plan should lapse, the area again suffer exceedences of the CO NAAQS, and additional CO reductions are necessary.

Mr. William Wessinger, Chairman  
October 20, 1993  
page 2

## PORTLAND IN COMPLIANCE WITH CO NAAQA NOW AND IN FUTURE

DEQ air monitoring data substantiates that Portland attained compliance with the CO NAAQS before oxygenated gasoline requirements became effective. Portland was brought into compliance with the CO NAAQS largely through the CO emission reductions accomplished by the federal motor vehicle emissions control program and the local vehicle inspection and maintenance program. However, because of the continuing "nonattainment" status of Portland, the Act required the winter oxygenated gasoline program to be implemented, even though vehicle emissions had been reduced sufficiently so there are no violations of the CO NAAQS. DEQ, nevertheless, elected to implement the oxygenated gasoline program even though it was not necessary.

We believe there is ample technical information available now to demonstrate that future compliance with the CO NAAQS will be sustained. Forecasts of future vehicle emissions for Portland show these emissions will continue to decline throughout the next ten-year period, demonstrating continued compliance with the CO NAAQS.

## ANALYSIS

However, because DEQ has failed to consummate the "redesignation process" in a timely manner, Portland remains designated a CO nonattainment area, subject to the Act's CO "nonattainment" provisions

Under these circumstances, we believe a more prudent proposal for a CO contingency measure would be to submit the current oxygenated gasoline requirements to EPA as "early implementation of a contingency measure." The CO emission reductions attributed to oxygenated gasoline are, in fact, surplus to those needed to attain and sustain compliance, since compliance was attained before the program became effective. Since the program would remain in effect, the expected added emission reductions would not be reserved for future implementation, but would contribute an on-going surplus of emission reductions, assuring the satisfactory performance of the "nonattainment plan."

In fact, because Portland attained CO compliance without the benefit of oxygenated gasoline, the program could be rescinded, reducing fuel costs, resulting in economic benefits to the community with no further public health threats. The oxygenated gasoline program could then be submitted to EPA as a contingency measure, reserved for implementation only if compliance with the CO NAAQS was breached in the future.

When DEQ first proposed an oxygenated gasoline contingency measure just this past August, we reminded the staff that during the first year of the oxygenated gasoline program (last winter), the average oxygen content of the winter gasoline was far in excess

Mr. William Wessinger, Chairman  
October 20, 1993  
page 3

of the 2.7% requirement since nearly all of this gasoline was blended with ethanol to "gasohol specifications"--i.e., 10% ethanol producing 3.5% oxygen content. Under these circumstances, a paper contingency measure requiring 2.9% oxygen content would be ineffective in producing additional real CO emission reductions and any anticipated air quality benefit would be illusory.

While gasohol blending was precipitated by both federal and state (since rescinded) ethanol tax credits, our experience in areas having oxygenated gasoline requirements for several years (e.g., Denver, Phoenix, and Las Vegas) shows that the federal tax credit alone is sufficient to maintain the economic competitiveness of ethanol and sustain its market dominance. We currently expect ethanol to remain the oxygenate of choice in the Pacific Northwest.

MTBE (methyl tertiary butyl ether) is another oxygenate available to satisfy requirements for oxygenated gasoline. However, EPA limitations prevent blending it above the 2.7% oxygen level. If the CO contingency measure requires a 2.9% oxygen content level, MTBE would be prohibited and ethanol would be mandated. By prohibiting MTBE, such a regulation would deny consumers the economic benefits of oxygenate competition. If MTBE should become economically competitive in the Northwest in the future, a restricted market allowing only ethanol would be anti-competitive.

## RECOMMENDATION

DEQ believes it is under an absolute rigid mandate from EPA to propose and have adopted the contingency measure it has presented. But, because Portland has achieved compliance with the CO NAAQS, and there is no actual or reasonably foreseeable risk of threat to public health from violations of the CO NAAQS, we do not believe that EPA will reflexively punish the State if Oregon does not follow this misdirected course of action.

Instead, we recommend the Commission direct the DEQ to accelerate efforts to prepare and submit to EPA early in 1994 a CO redesignation package for Portland, incorporating the current winter oxygenated gasoline requirements as an "early implementation of a contingency measure." DEQ can also identify other, more cost-effective measures (e.g., early implementation of an EPA-approved "enhanced inspection and maintenance program") as a CO contingency measure for the ten-year "maintenance plan."

Mr. William Wessinger, Chairman  
October 20, 1993  
page 4

We trust that in your deliberations, you will consider that adoption of the misguided DEQ-proposed CO contingency measure will set a poor precedent for future rulemaking.

Sincerely,

A handwritten signature in black ink that reads "C.T. Walz". The signature is written in a cursive, flowing style.

Charles T. Walz

scc: Fred Hansen, Director DEQ  
Philip G. Millam, EPA Region X  
Mary Riveland, WA DOE  
Robert Elliot, SWAPCA  
Del Fogelquist, WSPA NW

ORCOCM



DEPARTMENT OF ENVIRONMENTAL QUALITY

Air Quality Control

Date Received: 10/26/93  
Acknowledged By: TM

# UNOCAL

## PETROLEUM PRODUCTS AND CHEMICALS DIVISION

### PLANNING AND SERVICES

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

**RECEIVED**  
OCT 28 1993

911 Wilshire Blvd., 14th Floor  
Los Angeles, California 90017

OFFICE OF THE DIRECTOR

Facsimile: (213) 977-5835  
Unocal Network: 230-5835  
Verification: (213) 977-6258

DATE: 10/26/93

TO: Ired Hansen Steve Greenwood Howard Harris  
Oregon DEQ  
FAX NO.: (503) 229-5675  
FROM: D.W. Lamb  
PHONE NO.: (213) 977-5974  
COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

TOTAL PAGES INCLUDING COVER 4

DEPARTMENT OF ENVIRONMENTAL QUALITY

Air Quality Control

Date Received: \_\_\_\_\_

10/26/93

Acknowledged By: \_\_\_\_\_

JM



October 26, 1993

Fred Hansen, Director  
Oregon State Department of Environmental Quality  
822 S.W. 6th Avenue  
Portland, Or 97204-9310

Dear Fred,

Enclosed is an advance copy of the comments I plan to make on behalf of WSPA at the EQC meeting this Friday. We would appreciate your assistance in being placed on the agenda.

If you have any questions please call me at (213) 977-5974 or Del Fogelquist at (206) 441-9642.

Sincerely

*Dennis W. Lamb*

enclosure

cc Howard Harris  
Steve Greenwood

DEPARTMENT OF ENVIRONMENTAL QUALITY

Air Quality Control

Date Received: \_\_\_\_\_

Acknowledged By: \_\_\_\_\_

10/26/93  
TM

OREGON ENVIRONMENTAL QUALITY COMMISSION  
OCTOBER 29, 1993 MEETING  
AGENDA ITEM D  
REVISIONS TO THE MOTOR VEHICLE FUEL SPECIFICATIONS  
FOR OXYGENATED GASOLINE

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DEPARTMENT OF ENVIRONMENTAL QUALITY

Air Quality Control

Date Received: \_\_\_\_\_

Acknowledged By: \_\_\_\_\_

10/26/93  
TM

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WSPA further recommends that the Environmental Quality Commission establish milestones to be met by DEQ that will result in reclassification of all nonattainment areas in Oregon and the elimination of the oxygenated fuels program for the 1994/95 season.



**JAMES RIVER CORPORATION**

WAUNA MILL

Clatskanie, Oregon 97016 (503) 455-2221

October 28, 1993

Fred Hansen, Director  
Department of Environmental Quality  
811 S.W. Sixth Avenue  
Portland, Oregon 97204

Re: James River Corporation; Wauna Mill NPDES Permit  
Our File No. 4185-286

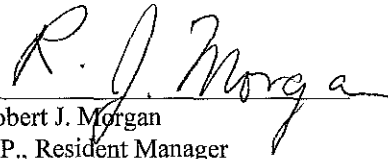
Dear Mr. Hansen:

The terms of the proposed NPDES permit for James River's Wauna mill, which the Department sent to James River on October 14, 1993, are acceptable to James River.

When the NPDES permit is issued in final form, and if the final conditions are unchanged from the October 14, 1993 draft, then the current contested case proceeding involving the NPDES permit for the Wauna mill will become moot. Accordingly, following issuance of the proposed NPDES permit in final form, James River will move the Environmental Quality Commission for an order dismissing the contested case proceeding as moot.

Your memorandum to Commission members dated October 11, 1993 refers to an agreement by James River to withdraw a petition for review of the TCDD limits filed with the Court of Appeals. Although such a petition was filed in October 1992, the Court of Appeals dismissed the petition in April 1993 as premature, and no petition for judicial review is now pending. Upon issuance of the proposed NPDES permit in final form, and dismissal of the contested case pending as moot, James River will not initiate a judicial review of the contested case proceeding.

Very truly yours,



Robert J. Morgan  
V.P., Resident Manager

JRPaperCo:Wauna  
RJM:bms



Charles T Walz  
Vice President  
Refining

Texaco Refining  
and Marketing Inc

10 Universal City Plaza  
Suite 1440  
Universal City CA 91608  
818 505 2641

October 28, 1993

Mr. William Wessinger, Chairman  
Oregon Environmental Quality Commission  
811 S.W. 6th Avenue  
Portland, OR 97204

**SUBJECT: Agenda Item D (October 29, 1993)  
Revisions to the Motor Vehicle Fuel Specifications  
for Oxygenated Gasoline**

Dear Mr. Chairman and Members of the Commission:

Texaco Refining and Marketing Inc. previously submitted correspondence (dated October 20, 1993) from Charles T. Walz, Vice President--Refining, presenting background and analysis on the oxygenated gasoline "contingency measure" being proposed by DEQ staff.

**Texaco supports the position presented by the Western States Petroleum Association on this matter.**

We remain troubled that the redesignation process for Portland, Grants Pass, and Klamath Falls has been delayed by DEQ staff and has fallen behind eleven other areas in the country, which have effectively acted in a more timely manner. The DEQ staff report fails to present a timely process (including milestones) for implementing such redesignation.

The oxygenated gasoline program is a costly one, with no benefit in attaining healthful carbon monoxide air quality in the three aforementioned areas, since compliance with the federal air quality standard was achieved before introduction of oxygenated gasoline last winter. Completion of the redesignation process will allow for suspension of this program, until and unless carbon monoxide air quality deteriorates, which is not expected (i.e., as a Maintenance Plan "contingency measure").

The "contingency measure" proposed today, however, is a regulatory response to a non-problem and bureaucratic requirements. In any case, its impact on carbon monoxide air quality will be illusory.

**Your Commission should direct the DEQ to begin the redesignation process as soon as possible so that by next winter, the oxygenated gasoline program in these three areas will be fully rescinded and the excessive cost burden relieved from Oregon consumers.**

Sincerely,

Charles T. Walz

ORCOCM2



United States  
Environmental Protection  
Agency

Region 10  
1200 Sixth Ave. MD142  
Seattle, WA 98101

**GREEN LIGHTS PROGRAM**

**Ronald F. Radke**

**(206) 553-2148**

**FAX (206) 553-4957**

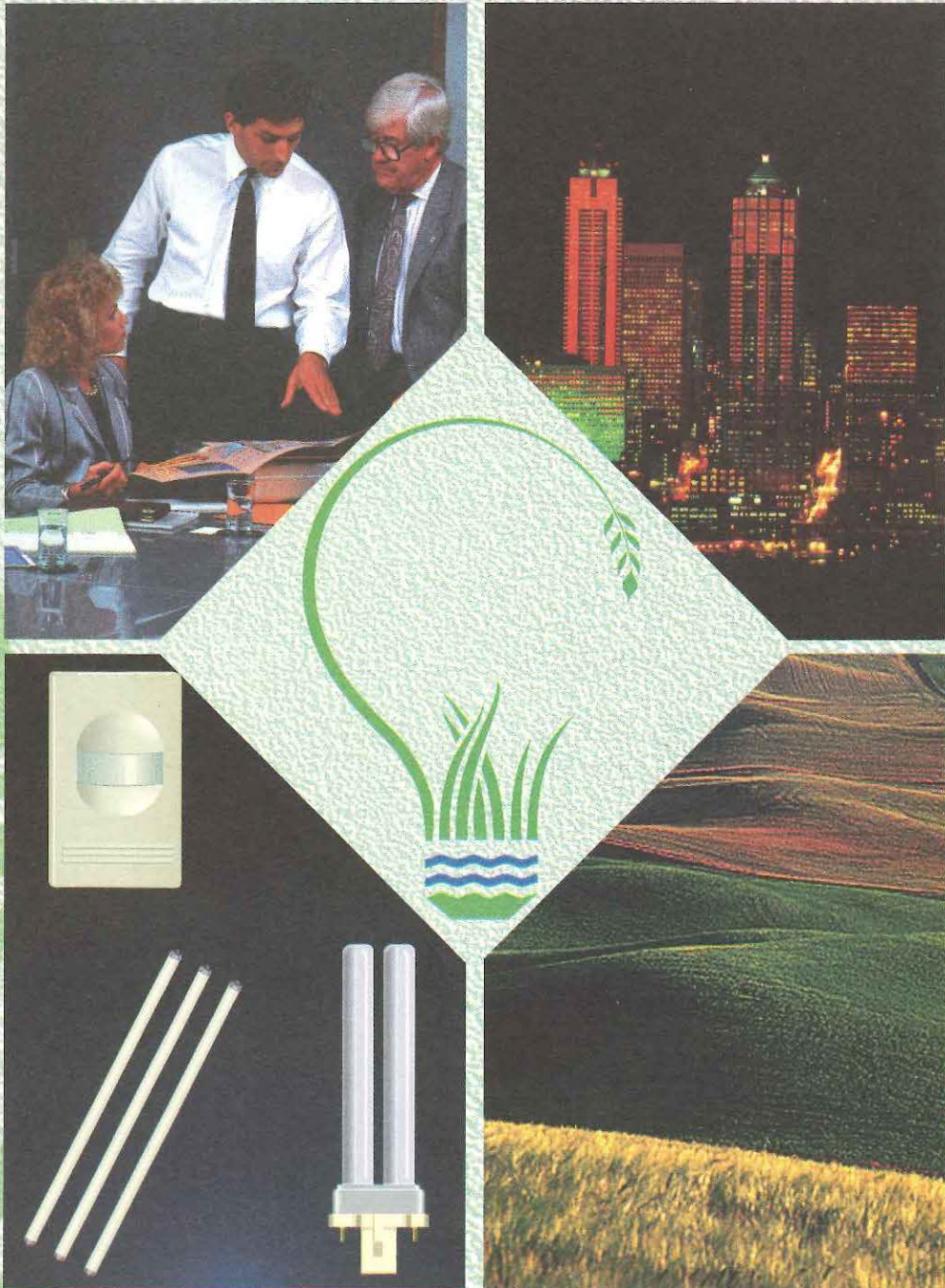
**NPARCA Employee in support of EPA**





# Green Lights

## An Enlightened Approach To Energy Efficiency and Pollution Prevention



**Recycled/Recyclable**  
Printed on paper that contains  
at least 50% recycled fiber





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BALDOR MOTORS AND DRIVES

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BEAR STEARNS

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Buildings



Caterair International

CAPE CANAVERAL Marine Services

CAROLINA FREIGHT CARRIERS CORPORATION



CCB Central Carolina Bank



Center For Applied Engineering, Inc.

CFCC

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CITICORP CITIBANK

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Hoechst

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herman miller

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HEWLETT PACKARD



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HIGHLANDS REGIONAL The Medical Center of Eastern Kentucky

HILTON AT THE CIRCLE

INTERGRAPH

Horton Memorial Hospital

Humana



INOVA HEALTH SYSTEM

INTERSTATE HOTELS

JPS ELECTRIC

MIDWEST GAS



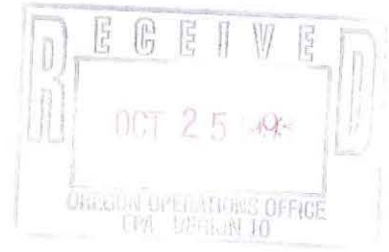
JAAKKO PÖYRY

Jantzen



Johnson & Johnson





# A BRIGHT INVESTMENT IN THE ENVIRONMENT...

► is a bright investment in the economy. Your participation in Green Lights, EPA's innovative, voluntary pollution-prevention program, clears the air while enhancing your bottom line. Whether you're a large or small company, a government agency, a hospital, a university, or a nonprofit, Green Lights can help you save money and help all of us prevent air pollution emissions from power plants. All your organization has to do is agree to survey its domestic facilities and upgrade the lighting wherever it's profitable to do so within 5 years. EPA will help you obtain the most current information about energy-efficient lighting technologies and help you decide which technologies are best for you. EPA also provides guidance on how your upgrades can be financed. The bottom line for you is measurable energy savings. The bottom line for the country is less air pollution. A bright investment indeed!

# Why did EPA create Green Lights ...

**M**any of the modern conveniences we take for granted are major sources of pollution—and many of them require electricity. Generating electricity involves burning fossil fuels—coal, oil, or natural gas—or running a nuclear reactor or hydroelectric plant. The mining and transportation of fossil fuels can result in various types of pollution, including acid mine drainage, oil spills, and natural gas leaks. And burning fossil fuels emits air pollutants from smokestacks, including carbon dioxide, sulfur dioxide, and nitrogen oxides.

For years, EPA has addressed these problems by requiring polluters to comply with “end-of-pipe” regulations, which control pollution after its creation. Today, EPA is increasingly focusing on pollution *prevention*. Energy efficiency is a cornerstone of EPA’s pollution-prevention strategy. If we use less electricity to deliver an energy service—such as lighting—the power plant that produces the electricity burns less fuel and thus generates less pollution.

When sulfur dioxide and nitrogen oxides are emitted by power plants and automobiles, they mix with water vapor, turn into sulfuric and nitric acids, and fall to the ground in the form of rain, snow, fog, or acidic particles. Acid rain damages buildings, trees, and other vegetation and can harm aquatic life.





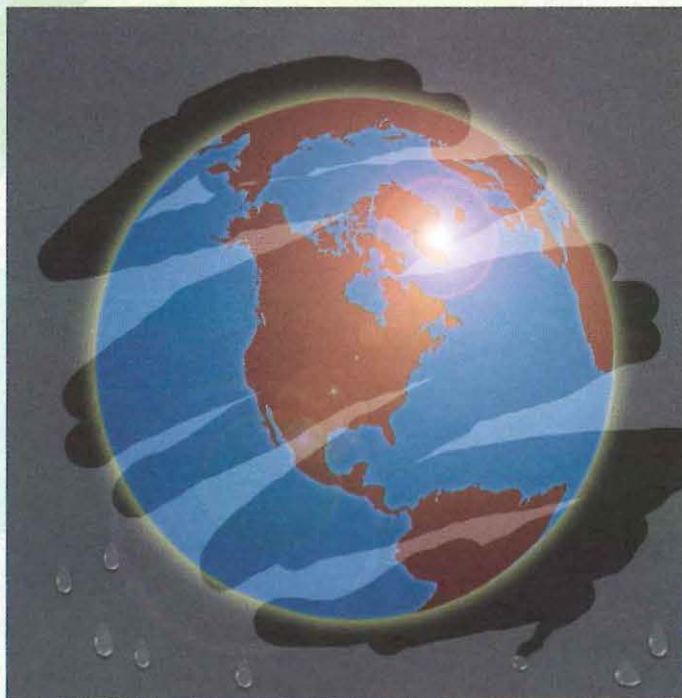
## *and why does it matter?*

Lighting accounts for 20–25 percent of all electricity sold in the United States. Lighting for industry, stores, offices, and warehouses represents 80–90 percent of total lighting electricity use, so the use of energy-efficient lighting has a direct effect on pollution prevention. Every kilowatt-hour of lighting electricity not used prevents emissions of 1.5 pounds of carbon dioxide, 5.8 grams of sulfur dioxide, and 2.5 grams of nitrogen oxides. If energy-efficient lighting were used where profitable, the nation's demand for electricity would

be cut by more than 10 percent. This would result in annual reductions of 202 million metric tons of carbon dioxide—the equivalent of taking 44 million cars off the road; 1.3 million metric tons of sulfur dioxide; and 600,000 metric tons of nitrogen oxides. These reductions represent 12 percent of U.S. utility emissions.

These goals may not be fully achievable, but Green Lights seeks to capture as much of the efficiency “bonus” as possible.

Smog is caused by various pollutants. Nitrogen oxides, which are emitted by power plants, are a primary ingredient in a corrosive mixture that is harmful to humans. At best, smog irritates the eyes and lungs. At worst, it can intensify respiratory ailments, including asthma and bronchitis.



Sunlight passes through the atmosphere and is re-emitted as heat radiation from the earth's surface. Certain gases block a portion of the outbound radiation, trapping heat much like a greenhouse. This interaction helps maintain the earth's average temperature at 60 degrees Fahrenheit. In the past 200 years, human activities have significantly increased concentrations of carbon dioxide and other “greenhouse” gases, accelerating the rate of global warming.

# Who are Green Lights participants ...

**T**he Green Lights roster includes all kinds of organizations from all over the country. In only 2 years, over 1,000 organizations have joined Green Lights. This includes over 480 corporate Partners, 420 Allies, and 100 Endorsers. Partners include major corporations in oil, pharmaceutical, retail, and other industrial groups, as well as smaller nonprofit organizations. There are also 31 government Partners, including 4 federal agencies, 13 states, 7 cities, 6 counties, and the U.S. Virgin Islands. Participants include restaurants and hotel chains; nonprofit organizations and profes-

sional and trade associations; major newspapers and cable networks; universities and local school districts; hospitals and insurance companies; as well as financial institutions and real estate firms throughout the country. These organizations have teamed up with EPA by upgrading their lighting, using less electricity, producing less pollution, and improving their lighting quality. They typically cut their lighting bills in half, while enhancing their environmental image and increasing employee productivity and morale.



Corporations  
State and Local Governments  
Environmental Organizations  
Schools, Colleges, and Universities  
Nonprofit Organizations  
Federal Agencies  
Health Care Facilities



Lighting Manufacturers  
Lighting Management Companies  
Electric Utilities  
Lighting Surveyors  
Lighting Distributors



Professional Associations  
Academies, Boards, Institutes, and Societies  
Trade Associations

## GREEN LIGHTS PARTICIPANTS DOING THEIR PART





# and what are they doing ...

Lighting is not typically a high priority for the vast majority of U.S. institutions. Often the responsibility of facility management, lighting is viewed as an overhead item. Because of this, most facilities are equipped with the lowest first-cost (rather than the lowest life-cycle-cost) lighting systems, and profitable opportunities to upgrade the systems are ignored or passed over in favor of higher-visibility projects. As a result, institutions pay needless overhead every year, reducing their own competitiveness

and that of the country. And wasteful electricity use becomes a particularly senseless source of pollution.

By signing the Green Lights Memorandum of Understanding, senior management makes it clear that energy-efficient lighting is now one of the organization's high priorities. Authority is granted, budgets are approved, procedures are streamlined, and staff is assigned to make the upgrades happen.

*Signing the Green Lights Memorandum of Understanding creates specific commitments*

## GREEN LIGHTS COMMITMENTS



Survey domestic facilities.



Upgrade lighting where profitable.



Complete upgrade within 5 years.



Assign an Implementation Director.



Help EPA promote the benefits of energy-efficient lighting.



Educate industry about the benefits of energy-efficient lighting.



Work with EPA to encourage development and use of new lighting technologies.



Endorse Green Lights concept.



## and how do they get it done?

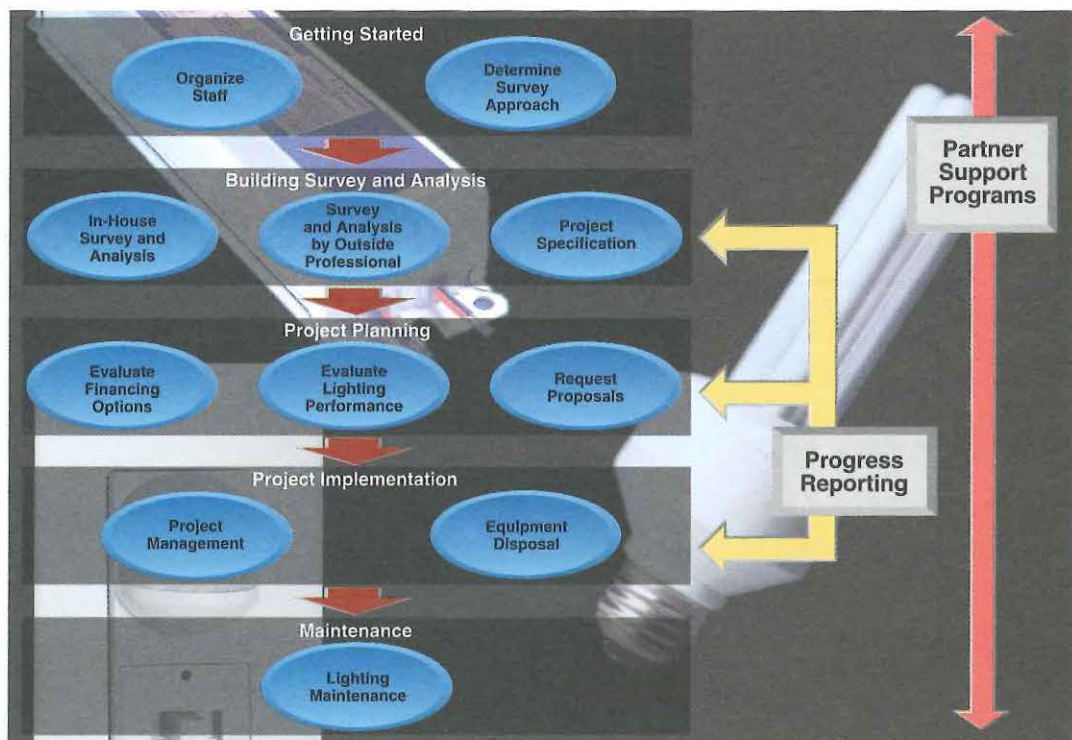
The commitment to maximize energy savings by upgrading an organization's facilities often requires a change in the way an organization does business. Management will have to take a fresh look at how the organization maintains and upgrades its facilities, ensures environmental responsibility, and plans for maximum work force production. For some organizations, this change will require significant planning and coordination among several different sectors of the organization.

While the Green Lights program is flexible enough to allow organizations to approach implementation in their own way, participants are

encouraged to plan a kickoff meeting with the assistance of EPA representatives shortly after joining the program. The objectives of the meeting are to mobilize the organization's commitment to maximizing energy savings, as agreed in the Memorandum of Understanding. The meeting is also a forum for the Green Lights implementation team to discuss plans and options. The team typically includes the Implementation Director, regional/divisional coordinators, facility staff, a financial analyst, public relations and environmental affairs specialists, and senior management.

Implementation begins by establishing project leadership; commu-

Lighting upgrades require the expertise of lighting designers, specifiers, project managers, waste management professionals, maintenance personnel, and financial managers. EPA's *Lighting Upgrade Manual* provides an overview of the steps and issues critical to implementing successful lighting upgrades.



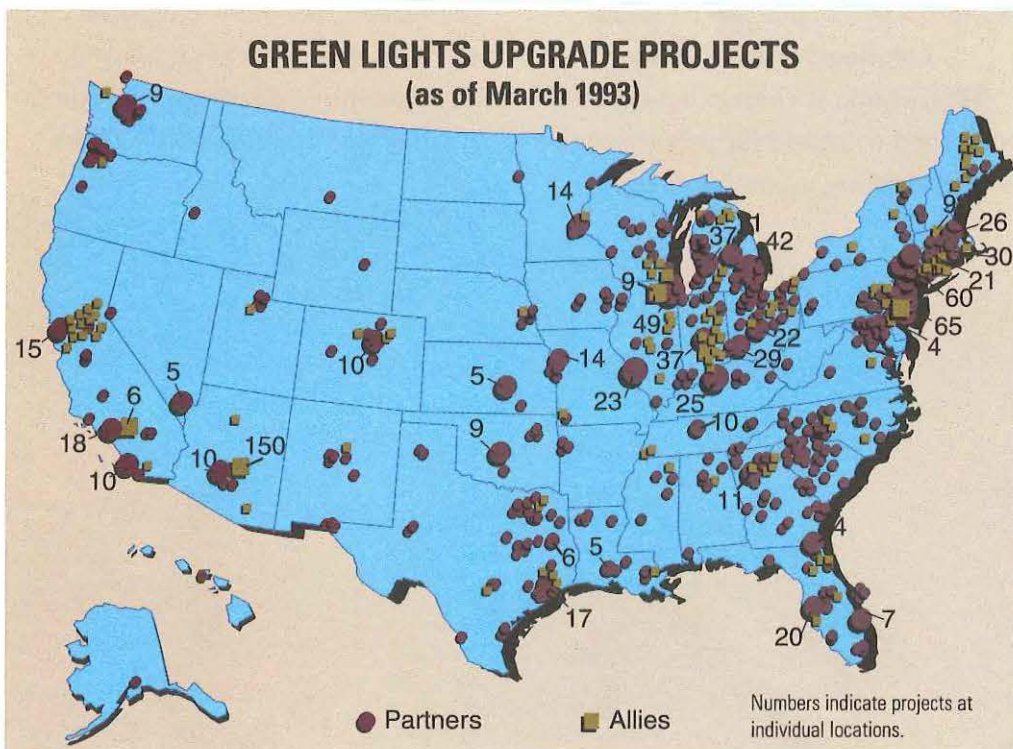


nicating and coordinating within the Green Lights team; identifying financing needs and resources; conducting trial installations; drawing up a 5-year action plan; and determining the best approach to specifying lighting upgrades.

The Green Lights approach to lighting upgrades defines as “profitable” those projects that—in combination and on a facility aggregate basis—maximize energy savings while providing an annualized internal rate of return (IRR) that is at least equivalent to the prime interest rate plus six percentage points. Projects that maximize energy savings while providing internal rates of return higher

than the prime interest rate plus six percentage points meet the Green Lights profitability criterion. The typical Green Lights upgrade yields an IRR of 20–40 percent post-tax.

As part of the Green Lights Memorandum of Understanding, Partners and Allies agree to provide annual documentation of the lighting upgrades they complete. To simplify this process, EPA asks Partners and Allies to complete a one-page form for each facility—the Green Lights Implementation Report—to report their progress.



Over 200 participants have reported significant progress on lighting upgrades with close to one-quarter of their total square footage currently being upgraded. Investment in these new lighting technologies currently amounts to over \$23 million.



# How does EPA help ...

**E**PA provides a package of networking, technical, and marketing tools, at no cost, that are designed to ensure that lighting upgrades will result in the greatest possible energy savings, the best quality, and the highest possible return on investment.

## Decision Support System

This state-of-the-art computer software package enables Green Lights participants to survey lighting systems in their facilities, assess their lighting options, and select the best energy-efficient lighting upgrade. It selects lighting upgrades that maximize energy savings and pollution prevention, while simultaneously maintaining or improving lighting quality and meeting the Green Lights profit criteria.

## Lighting Services Group

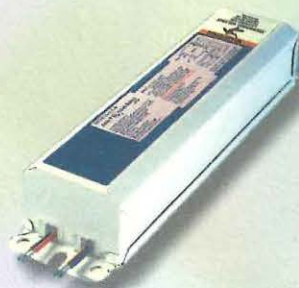
This group provides extensive individualized technical support throughout the lighting upgrade process.

This includes monthly lighting workshops nationwide, covering advanced lighting technology project management, Green Lights reporting, and the use of Green Lights software. The Lighting Services Group also distributes the Green Lights *Lighting Upgrade Manual*, a step-by-step guide to a successful lighting upgrade.

## Financing Registry

To help participants manage the up-front costs of converting to energy-efficient lighting, EPA has developed the most extensive data base available on utility-sponsored financial assistance (auditing, technical support, lighting design services, free installation, rebates, and loans), and a directory of over 75 energy service companies that finance lighting efficiency upgrades (leasing, shared savings, guaranteed savings, and other financing techniques). The Green

## TYPES OF ENERGY-EFFICIENT LIGHTING TECHNOLOGIES



### Electronic Ballasts

All fluorescent lamps must have an auxiliary, commonly known as a ballast, to regulate the electrical current into the lamp and provide the necessary starting voltages. Each lamp requires a ballast specifically designed for its characteristics and for the service voltage on which it is to be operated. A typical electronic ballast is 10–15 percent more efficient than the standard magnetic ballast.



### Compact Fluorescents

Compact fluorescent lamps (CFL's) combine the efficiency of fluorescent technology with the familiar light quality of incandescents. CFL's convert most of their electricity into light—not heat. As a result, CFL's are four times more efficient than standard incandescents and can last 9–15 times longer.

Lights *Financing Registry* is updated every 6 months.

### **National Lighting Product Information Program**

This program provides objective name brand information about lighting products. Cosponsored by EPA and other organizations and developed by the Rensselaer Polytechnic Institute Lighting Research Center, the program enables lighting specialists to make informed lighting investment decisions. In 1992, the program completed reports on the performance of electronic ballasts, reflectors, power reducers, occupancy sensors, compact fluorescents, and parking lot luminaires. Five to ten new reports are planned for 1993.

### **Ally Programs**

These programs represent the lighting and power industries. They

are comprised of lighting manufacturers, lighting management companies, lighting product distributors, lighting surveyors, and electric utilities. Like Partners, Green Lights Allies agree to upgrade their lighting. They also work with EPA to promote energy-efficient lighting to potential users. The Surveyor Ally Program publishes a directory of individuals who have attended a Green Lights workshop and are committed to helping Green Lights members fulfill their obligations under the Memorandum of Understanding. Through this program, EPA is creating a group of lighting professionals who are familiar with completing energy-efficient lighting upgrades using the Green Lights approach.



#### **Fluorescent Tubes**

The 40-watt T-12 "Cool White" fluorescent lamp has dominated the commercial lighting market for decades. With rising energy costs, research and development of more efficient lighting have become priorities. New systems that include the smaller-diameter "T-8" lamp can increase lumens per watt to over 100, as opposed to the current standard of 60. By substituting these new systems, offices can improve their lighting quality while reducing energy costs.



#### **Motion Sensors**

Occupancy sensors are motion-sensing devices that automatically turn on lights when motion is detected, keep lights on when motion is detected, and turn lights off when motion is not detected. The most appropriate application for occupancy sensors is in spaces where occupancy is infrequent or unpredictable, such as private offices, conference rooms, storage rooms, or rest rooms.



# and how are some participants doing...

Company	Equipment Before Lighting Upgrade	Equipment After Lighting Upgrade
 <p>American Express Shearson Lehman Brothers Headquarters New York, NY May 1992</p>	<p>31,000 T-12 lamps 17,000 magnetic ballasts 158 incandescent lamps manual switches</p>	<p>31,000 T-8 lamps 17,000 electronic ballasts 158 compact fluorescents 239 occupancy sensors</p>
 <p>Boeing Manufacturing Facility Auburn, WA February 1992</p>	<p>11,000 T-12 VHO lamps 5,700 magnetic ballasts</p>	<p>4,200 metal halide lamps</p>
 <p>Browning Ferris Industries Office Facility Houston, TX October 1992</p>	<p>10,000 T-12 lamps 3,300 magnetic ballasts 350 incandescent lamps</p>	<p>6,700 T-8 lamps 3,300 electronic ballasts 350 compact fluorescents</p>
 <p>Dresser Rand Manufacturing Facility Painted Post, NY January 1993</p>	<p>12,200 T-12 lamps 3,300 magnetic ballasts</p>	<p>6,600 T-8 lamps 1,850 electronic ballasts reflectors</p>
 <p>Elkhart General Hospital Elkhart, Indiana September 1992</p>	<p>7,000 T-12 lamps 2,700 magnetic ballasts 97 manual switches</p>	<p>3,200 T-8 lamps 1,600 electronic ballasts 82 occupancy sensors 15 timed switches</p>
 <p>The Gillette Company Manufacturing Facility Santa Monica, CA May 1992</p>	<p>4,300 T-12 VHO lamps 10 manual switches</p>	<p>496 metal halide lamps 10 daylight switches</p>
 <p>Hasbro Warehouse Facility West Warwick, RI February 1992</p>	<p>260 metal halide lamps</p>	<p>260 high-pressure sodium lamps</p>
 <p>Hoechst Celanese Manufacturing Facility Branchburg, NJ December 1991</p>	<p>650 T-12 VHO lamps 450 T-12 lamps 1,100 magnetic ballasts 31 incandescent spotlights</p>	<p>650 T-12 VHO lamps 450 T-8 lamps 1,100 electronic ballasts 31 compact fluorescents</p>
 <p>Mobil Corporate Headquarters Fairfax, VA February 1992</p>	<p>22,000 T-12 lamps 11,000 magnetic ballasts 496 incandescent downlights 350 incandescent exit signs</p>	<p>22,000 T-8 lamps 11,000 electronic ballasts 408 halogen lamps 78 compact fluorescents 350 fluorescent exit signs</p>
 <p>State of Maryland Dept. of Education Headquarters Baltimore, MD May 1992</p>	<p>10,600 T-12 lamps 5,300 magnetic ballasts 68 incandescent exit signs 28 incandescent lamps</p>	<p>5,600 T-8 lamps 2,800 electronic ballasts 68 fluorescent exit signs 28 compact fluorescents</p>
 <p>Union Camp Office Facility Wayne, NJ March 1992</p>	<p>7,000 T-12 lamps 3,500 magnetic ballasts 1,000 incandescents</p>	<p>3,600 T-12 lamps 1,500 tandem wired electronic ballasts reflectors and lenses 1,000 compact fluorescents</p>
 <p>Westin Hotels and Resorts St. Francis Hotel San Francisco, CA May 1992</p>	<p>1,600 incandescent lamps</p>	<p>1,600 compact fluorescents</p>

\*Note: This representative sample of recent Green Lights upgrades reflects interim progress reports. Electricity savings typically increase as participants approach full implementation.



Sq. Footage	Final Cost of Project	Internal Rate of Return	Total Annual Savings	Rebate/ Grants	kW Not Used	Lighting Electricity Reduction	Pollution Prevented (per year)		
							CO <sub>2</sub> (lbs.)	SO <sub>2</sub> (grams)	NO <sub>x</sub> (grams)
1,500,000	\$710,000	38% (excluding rebate)	\$280,000	\$472,000	385	37%	3,991,981	12,641,274	4,324,646
1,537,775	\$2,858,558	13%	\$131,000	\$2,011,790	727	27%	1,192,280	4,172,980	2,384,560
545,000	\$210,000	51% (excluding rebate)	\$107,000	\$16,000	221	50%	1,034,280	1,436,500	1,436,500
1,000,000	\$230,000	61%	\$78,800	\$100,000	281.4	69.9%	1,201,008	3,803,192	1,301,092
430,000	\$85,446	33-50%	\$102,150		270.6	70+%	3,064,488	11,849,354	5,107,480
150,000	\$176,534	73% (excluding rebate)	\$128,608	\$27,000	186.5	58%	2,411,393	9,324,051	4,018,988
340,000	\$186,000	50% (excluding rebate)	\$63,000	\$154,000	126	57%	1,500,000	5,800,000	2,500,000
220,000	\$146,000	49% (excluding rebate)	\$77,472	\$73,000	205	59%	520,000	1,600,000	1,100,000
2,400,000	\$392,400	30% (excluding rebate)	\$125,000	\$0	520	25%	2,250,000	7,500,000	3,400,000
180,000	\$208,749	48% (excluding rebate)	\$100,513	\$104,374	317	64%	2,681,387	11,932,175	4,022,081
150,000	\$280,000	90%	\$100,000	\$186,000	168.4	51.05%	674,895	2,024,685	1,446,203
1,500,000	\$75,915	186% (excluding rebate)	\$85,200	\$16,573	66	82.3%	867,792	3,355,462	1,446,320

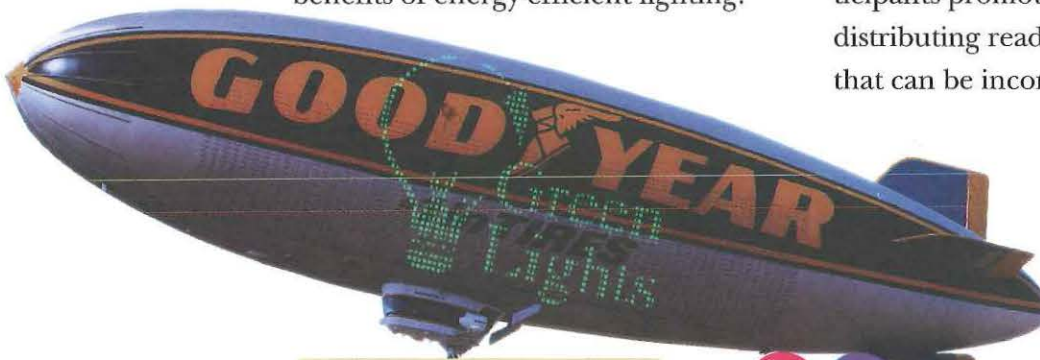


## and how is the word getting out?

For Green Lights participants, successfully marketing a genuine “green” initiative can have significant long-term public relations and competitive advantages. Consumers, investors, and other stakeholders increasingly demand environmental accountability. Organizations that recognize the public relations benefits of responsible environmental practices increase their competitive advantage. And participation in Green Lights gives an organization an opportunity to demonstrate its environmental commitment by going beyond the minimum requirements of environmental protection laws. In fact, networking among program participants and the pooling of their resources and ideas have proven to be highly successful in promoting the benefits of energy-efficient lighting.

The Green Lights’ Public Recognition program is designed to help participants educate their employees and customers about Green Lights, keep participants informed about the national program’s progress, and publicly recognize Green Lights participants for their voluntary pollution-prevention commitments and accomplishments.

Participants have found that the easiest and most cost-effective way to promote participation in Green Lights is through the use of the Green Lights logo. As upgrades advance, participants are encouraged to use the logo appropriately on non-product-specific communications materials and integrate Green Lights into their long-term marketing and advertising strategies. EPA helps participants promote Green Lights by distributing ready-to-use materials that can be incorporated into inter-



Green Lights is in the air, on the air, and in the newsstands. Green Lights public service advertisements have appeared in a wide variety of business and environmental magazines, including *BusinessWeek*, *Fortune*, and *Discover*. In the fall of 1992, the NBC “Environmental Showcase”—a 30-minute public affairs program devoted exclusively to Green Lights—aired on NBC and CBS stations across the country. And, for 3 months at the end of 1992 and the beginning of 1993, Green Lights Partner Goodyear Tire and Rubber Company aired public service Green Lights messages on its Goodyear airships *Eagle*, *Spirit*, and *Stars and Stripes*.

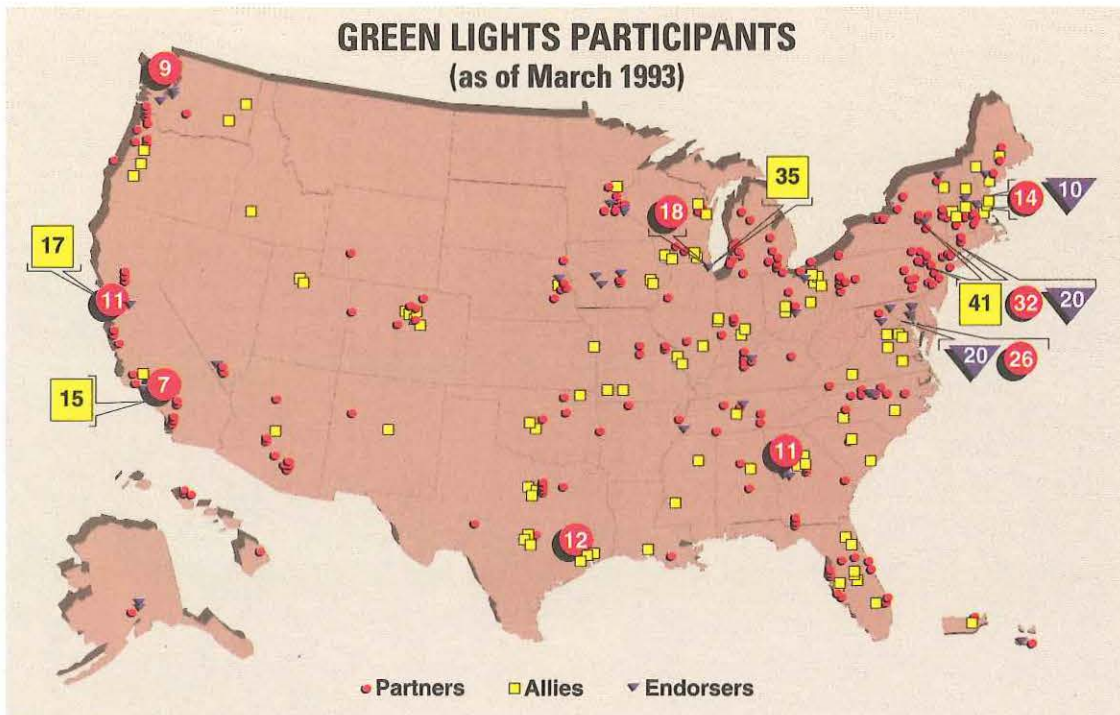
nal communications, public relations, marketing, and advertising materials.

To keep participants updated on the program, EPA distributes the *Green Lights Update*, a publication that contains the latest information on program developments, achievements of Green Lights participants, and energy-efficiency issues of interest. EPA also distributes *Light Briefs*, a series of easy-to-understand fact sheets on energy-efficient lighting technologies. A variety of other informational materials, including brochures and videos that cover various aspects of the program, are also available.

EPA further raises awareness of Green Lights by recognizing program participants through public service advertisements in business,

trade, and popular magazines; press releases and press conferences; and articles in major newspapers and other mass media.

Finally, because lighting accounts for up to 10 percent of the average residential electric bill, EPA is introducing Green Lights to residential users. Highly efficient alternatives are capable of cutting energy consumed for lighting in half. To encourage the use of these alternative technologies—such as compact fluorescents—EPA is working with electric utilities to promote the benefits of energy-efficient lighting to their customers. EPA will also work with Green Lights Partners to design and distribute educational materials aimed at residential users.



As of March 19, 1993, 788 organizations had joined Green Lights, including 12 percent of the Fortune 1000.



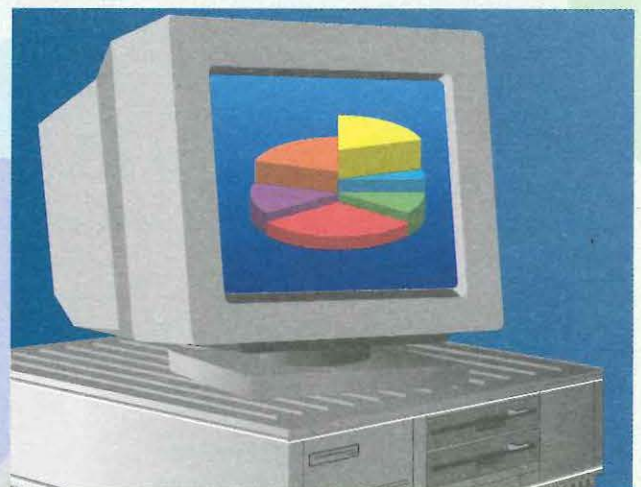
## What other bright ideas are in the works ...

**B**uilding on the momentum established by Green Lights, EPA is now designing a new generation of pollution-prevention initiatives that will harness market forces to achieve environmental goals at a profit. The new initiatives reflect the realities of the 1990's—the importance of environmental issues to consumers, the increasing cost of energy supply, and the intensely competitive world marketplace. Taken together, these factors make investments in energy efficiency as critical to economic success as they are to pollution prevention. It is the synergy between greater efficiency and increased prof-

itability that attracts corporations and other institutions to Green Lights. And it is this synergy that EPA plans to tap for the next generation of pollution-prevention initiatives.

EPA is planning a family of programs that offers the kinds of tools made available by Green Lights: objective product information, expert decision-making capability, and the ability to publicize progress in protecting the environment. These include the Energy Star Buildings program, which will cover heating, ventilation, and air-conditioning systems; and the Energy Star Computers

Computer systems consume 5 percent of all commercial electricity—and this number could grow to 10 percent by the year 2000. Research suggests that 30–40 percent of all computers are left on at night and over weekends, and that even during the day computers are active less than 20 percent of the time. EPA's Energy Star Computers program will result in dramatic reductions in energy use, costs, and greenhouse gas emissions.





## and how is EPA implementing them?

program, whose goal is to increase market penetration of new, energy-efficient personal computers.

EPA also provides incentives for developing super-efficient products. Under the “Golden Carrot”™ Refrigerator program, which EPA helped develop with utilities and other organizations, utilities have pooled \$30 million in rebate incentives to refrigerator manufacturers. The manufacturer that can build the largest number of the most efficient,

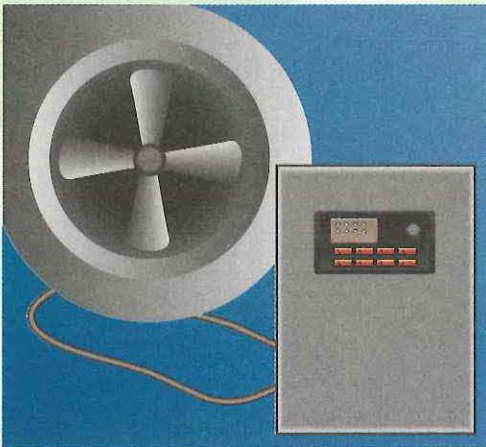
chlorofluorocarbon (CFC)-free refrigerators the quickest and cheapest wins the contract.

Finally, EPA encourages the use of energy-efficient technologies overseas. EPA officials are working with Chinese refrigerator manufacturers to develop efficient, non-CFC-containing refrigerators and are assessing the supply of energy-efficient lighting technologies available in China.

Refrigerators consume 20 percent of all residential electricity. On average, refrigerators consume 1,200 kilowatt-hours per year (kWh/yr) of electricity.

EPA's “Golden Carrot”™ Super-Efficient Refrigerator program is focusing manufacturer research and development toward energy efficiency in a manner never before seen for refrigerators. The winning refrigerator is expected to use about 400 kWh/yr.

Every year, roughly 50,000 air-handling motor drives are purchased to move air through buildings and factories. Of these, less than 20 percent have fans capable of operating at variable speeds—that is, adjusting their power based on the needs of the building occupants at any particular time or any particular weather circumstance. By promoting the use of variable-speed drives (VSD's) EPA will aim to reduce electricity consumed for air handling by 40 percent or more.





## What's the bottom line?

**O**nly by incorporating environmental concerns can economies truly prosper, and taking advantage of economic forces can help realize environmental protection goals. Through voluntary programs to reduce greenhouse gases, EPA and its private-sector partners seek to do both.

These programs promote profitable, voluntary investment in energy-efficient technologies. They bring together organizations with similar long-term environmental priorities and encourage them to rally around shared public- and private-sector

goals. They enhance economic competitiveness and create jobs by establishing markets for new products.

And the benefits of working with EPA are considerable. EPA provides extensive technical support as well as public recognition for environmental leadership.

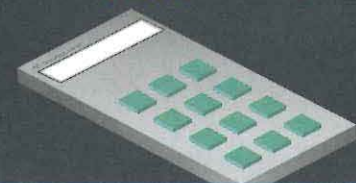
All in all, these programs will help reduce air pollutants and cut carbon dioxide emissions in the United States to 1990 levels by the year 2000. If Green Lights were fully implemented in all space in the United States,

**Air Pollution Cut:  
12 Percent**



**Average IRR:  
30 Percent**

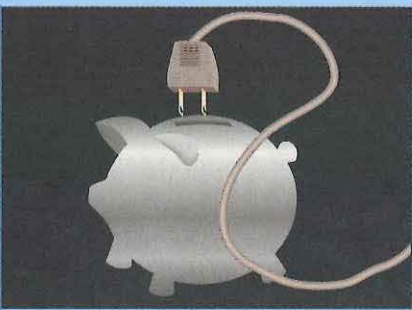
$$0 = \sum_{t=0}^n \frac{C_t}{(1+R)^t}$$



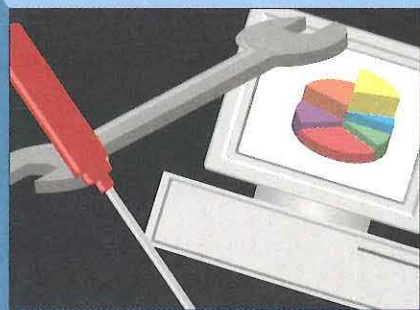
it would result in air pollution reductions equivalent to 12 percent of U.S. utility emissions. What's more, participants would realize returns on their lighting investments of 30 percent and more. Green Lights could save over 65 million kilowatts of electricity, reducing the national electric bill by \$16 billion per year. That's \$16 billion that could be invested in jobs and enhanced productivity. By the year 2000, Green Lights could result in over 220,000 new jobs.

How much of the Green Lights potential is achieved depends on how all of us work together to "make it happen." As the prototype for future market-driven, nonregulatory "green" programs, Green Lights is a bright investment in the environment. It is an enlightened approach to energy efficiency and pollution prevention that is revolutionizing the way America protects its environment. See the light. Join.

**Electric Bill Savings:  
\$15.8 Billion/Year**



**Jobs Created by 2000:  
220,000**





# U.S. EPA Green Lights Program

If you are interested in receiving more information about the Green Lights program, please photocopy this page, complete the information below, and fax or mail to:

U.S. EPA  
Green Lights 6202J  
401 M Street, SW  
Washington, DC 20460  
fax: 202 775-6680

Please call the Green Lights Hotline at 202 775-6650 with questions.

Name \_\_\_\_\_

Title \_\_\_\_\_

Official Company Name \_\_\_\_\_

Address \_\_\_\_\_

City, State, ZIP \_\_\_\_\_

Telephone \_\_\_\_\_

Fax \_\_\_\_\_

Type of organization \_\_\_\_\_

\_\_\_\_\_

Approx. # of employees \_\_\_\_\_

Approx. # of facilities \_\_\_\_\_

Approx. square footage of all U.S. facilities \_\_\_\_\_

Location of corporate headquarters \_\_\_\_\_

How did you hear about Green Lights? \_\_\_\_\_

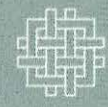
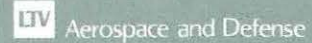
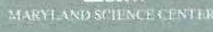
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**MANUFACTURING ALLIES** • A Weatherization Co/AWXCO • A.L.P. Lighting + Ceiling Products • Advanced Control Technologies • Advance Transformer Company • Amalco Metals, Inc. • American Lighting Systems • American Energy Management • American Illumenitics Inc. • American Lighting Corporation • American Louver Company • American Systems and Services • Amerlux, Inc. • Appliance Control Technology • Area Lighting Research • Art Directions Inc. • Badger USA, Inc. • Brayer Lighting, Inc. • Bright Side Lighting • Brownlee Lighting • Bryant Electric • Canterra Electronics International • CCR Lighting Technologies • C.E.W. Lighting, Inc. • Chloride Systems, Mnfr of Exide Lightguard Products • CMB Associates, Inc. • Columbia Lighting, Inc. • Computer Power, Inc. • Control Systems International • Cooper Lighting • CSL Lighting Mfg., Inc. • Dark To Light Inc. • Davis Control Corporation • Dazor Manufacturing Corporation • Dielectric Coating Industries • Digecon • DuraLux Industries • Duray Fluorescent Manufacturing • Duro-Test Corporation • Dynamic Energy Products, Inc. • East Rock Manufacturing & Technology • Eclipse Technologies • Edison Price Lighting • Elba USA, Inc. • Electronic Ballast Technology • Emergency Safety Products, Inc. • Energy & Environmental Lighting Services • Energy Dezign Corporation • Energy Saving Products • Energy Savr Products • Enersave Company • Enertron Technologies, Inc. • Enterprise Lighting, Inc. • Environmental Energy Group • ESCO International • Etta Industries • Exitronix Division of Barron Manufacturing Corporation • Fail-Safe Lighting Systems • Feit Electric Company • Finelite • First Lighting, Inc. • Flexiwatt Corporation • Flexlite Inc. • FTI • FulCircle Ballast Recyclers • GE Lighting • The Genlyte Group • Good Earth Lighting Company • Guardian Lighting Controls, Inc. • Harris Manufacturing, Inc. • Heath Company • Hetherington Industries • Holophane Company, Inc. • Honeywell Inc. • House O' Lite • Hubbell Incorporated, Lighting Division • INCON Industries • Industrial Energy Systems, Inc. • Indy Lighting • Illumination Control Systems • Integrated Power & Lites, Inc. • International Energy Conservation Systems • Intertec Lighting, Inc. • Isolite • Janmar Lighting • Jedcor Energy Management Company • Johnson Controls, Inc. • Juno Lighting • K-Lite Division of ICI Acrylics/K-S-H Inc. • Kenall • Kilowatt Saver, Inc. • Kim Lighting • King Technology, Inc. • The Kirlin Company • Lamar Lighting Company, Inc. • Legion Lighting • LexaLite International • Light Energy Corporation • Lighting & Lowering System • Lighting Resources, Inc. • LightMedia Corporation • Lightron of Cornwall, Inc. • Lights of America • Lightway Industries • Litecontrol • Lithonia Lighting • Litronics International • Lorin Industries • LSI Industries • Lumatech Corporation • Lumax Industries, Inc. • Lumen-Tronics, Inc. • Magnaray International • MagneTek, Inc. • Marvel Lighting Corporation • Megalite Corporation, Inc. • Mercury Recovery Services • MetalOptics, Inc. • 3M • MirrorLight Inc. • ML Systems • Moldcast, a Division of USI Lighting, Inc. • Mor-Lite • Motorola Lighting, Inc. • Mule Emergency Lighting, Inc. • MyTech Corporation • National Lighting Company • Neonix • Norbert Belfer Lighting • Nova Ballast Company, Inc. • NOVA Conservation and Load Management • Novitas Inc. • NRG Lighting Inc. • Optical Coating Laboratory Inc. • Optilight, Inc. • OrEqual, Inc. • OSRAM Corporation • Paragon Electric Company, Inc. • Paramount Industries • Parke Industries, Inc. • Parrish Lighting and Engineering, Inc. • Peerless Lighting Corporation • Peschel Energy, Inc. • Philips Lighting Company • PLC-Multipoint • Pleamonn Products • Powerline Communications, Inc. • Pre Finish Metals, Inc. • Prescolite, a division of USI Lighting, Inc. • Prescolite Controls, Inc. • Prime Ballast • The Pritchett-Wilson Group, Inc. • Progress Lighting • RAB Electric Manufacturing Company • Reflect-A-Light • Reflective Light Technologies • Remtec Systems • The Robert Group • Robertson Transformer Company • Roth Bros., Inc. • Ruud Lighting, Inc. • Salesco Systems USA • Save-A-Watt, Inc. • Scientific Component Systems • Sea Gull Lighting Products • Sensor Switch • Sharlin-Lite • Silverlight Corporation • Simkar Lighting Fixture Company, Inc. • Solar Electric Systems of Kansas City • Solar Kinetics, Inc. • Southco Metal Services, Inc. • Spaulding Lighting, Inc. • SPI



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Environmental Protection  
Agency  
(6202-J)  
Washington, DC 20460

Official Business  
Penalty for Private Use  
\$300



## Environmental Quality Commission

- Rule Adoption Item
- Action Item
- Information Item

Agenda Item E  
October 29, 1993 Meeting

**Title:**

Vehicle Inspection Program State Implementation Plan Revisions

**Summary:**

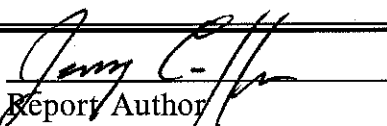
The federal Environmental Protection Agency (EPA) as directed by the 1990 Clean Air Act has established criteria for a "basic" inspection and maintenance (I/M) vehicle testing program which must be met by Oregon's I/M program before July 1, 1994. The EPA directives also require that the details of the revised program be included in the state implementation plan (SIP) which must be revised and presented to EPA prior to November 15, 1993.

The current Oregon vehicle testing program, which operates in the Portland and Medford areas, already meets or exceeds the federal requirements for a "basic I/M" program in most technical respects. The proposed rule and SIP revisions are designed to upgrade the Oregon I/M program to be equivalent to the federal requirements in the areas of 1) computerized testing equipment, 2) inspector training, certification and discipline and 3) enforcement.

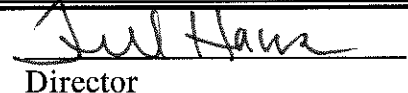
The proposed SIP contains a number of areas indicating commitments to establish EPA required enforcement and quality control procedures prior to July 1, 1994 for specific issues which could not be resolved prior to Commission consideration. The Department anticipates submitting an amended SIP which meets the remaining administrative EPA requirements to the Commission in May or June, 1994. Although EPA would have preferred a final and complete SIP submission on November 15, 1993, EPA has recognized the time constraints imposed by their tightened schedule and has informed the Department that indicating future commitments is an acceptable procedure.

**Department Recommendation:**

It is recommended that the Commission adopt the rules amendments regarding Vehicle Inspection Program SIP revisions.

  
Report Author

  
Division Administrator

  
Director


October 15, 1993. †Accommodations for disabilities are available upon request by contacting the Public Affairs Office at (503)229-5317(voice)/(503)229-6993(TDD).



State of Oregon  
Department of Environmental Quality

Memorandum<sup>†</sup>

Date: October 29, 1993

To: Environmental Quality Commission  
From: Fred Hansen, Director   
Subject: Agenda Item E, October 29, 1993, EQC Meeting

Vehicle Inspection Program State Implementation Plan Revisions

**Background**

On July 8, 1993, the Director authorized the Air Quality Division to proceed to a rulemaking hearing on proposed rules which would update the Vehicle Inspection/Maintenance(I/M) Program in the Medford and Portland areas to meet new federal Environmental Protection Agency (EPA) requirements. These requirements were published by EPA in the November 5, 1992 Federal Register as required by the 1990 federal Clean Air Act.

Pursuant to the authorization, hearing notice was published in the Secretary of State's Bulletin on August 1, 1993. Notice was mailed to the mailing list of those persons who have asked to be notified of rulemaking actions, and to a mailing list of persons known by the Department to be potentially affected by or interested in the proposed rulemaking action on July 22, 1993.

A Public Hearing was held August 17, 1993 at 7:00 p.m in Portland at the State Office Building, 800 NE Oregon Street, Room 120 and at the same date and time in Medford at the Medford City Council Chambers, 411 W. 8th Street. David Collier served as Presiding Officer at the Portland hearing and Patti Seastrom served as Presiding Officer at the Medford hearing. The Presiding Officer's Report (Attachment C) summarizes the oral testimony presented at the hearing.

Written comment was received through August 18, 1993, 5:00 p.m.. A copy of written comments received is included as Attachment D.

Department staff have evaluated the comments received (Attachment E). Based upon that evaluation, modifications to the initial rulemaking proposal are being recommended

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by the Department. These modifications are summarized below and detailed in Attachment F.

The following sections summarize the issue that this proposed rulemaking action is intended to address, the authority to address the issue, the process for development of the rulemaking proposal including alternatives considered, a summary of the rulemaking proposal presented for public hearing, a summary of the significant public comments and the changes proposed in response to those comments, a summary of how the rule will work and how it is proposed to be implemented, and a recommendation for Commission action.

#### **Issue this Proposed Rulemaking Action is Intended to Address**

The 1990 Federal clean Air Act requires that all marginal ozone nonattainment areas and all moderate carbon monoxide nonattainment areas with urbanized population of 200,000 or more institute a "basic inspection and maintenance" (I/M) program for motor vehicles. In addition, all existing I/M programs are required to remain effective until the state submits and EPA approves a maintenance plan which demonstrates that the area can maintain ambient air quality standards without benefit of the emission reductions attributable to the I/M program. The federal requirements for a basic I/M program were issued by EPA in November 1992.

Oregon has been operating an I/M program in the Portland Metropolitan area since 1975, and in the Medford area since 1986. Oregon's biennial testing program was one of the nation's first and most effective, and exceeds the minimum federal requirements in a number of areas. However, there are several technical and administrative changes that are needed to meet all the federal requirements.

The most significant change is replacement of current testing equipment with new computerized equipment which will automatically record analyzer test results, and enhance reporting to EPA. Authorization for purchase of the equipment was obtained in the 1993 Legislature, and installation of this equipment is scheduled to be completed by June 1994.

A number of other administrative changes are required related to enforcement and quality control. Ideally these changes should be submitted with this package, but some issues will take longer to address. The Department, after consultation with EPA, is proposing to submit specific measures to address these administrative requirements at a future date.

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### **Relationship to Federal and Adjacent State Rules**

The proposed rules are designed to be equivalent to requirements of the federal EPA regulations. Implementing the changes requires revision to the State Implementation Plan (SIP). A total of 38 states including California and Washington are required to implement basic I/M testing programs on the same schedule and with the identical federal requirements as the State of Oregon.

### **Authority to Address the Issue**

Oregon is required by EPA regulations 40 CFR 51 (codified in 1993) to implement the proposed I/M program changes with associated SIP and rule revisions. ORS 468A.350 through 468A.415 establishes the authority of the Oregon Environmental Quality Commission to make rules governing the operation the Oregon I/M program.

### **Process for Development of the Rulemaking Proposal (including alternatives considered)**

Discussions regarding vehicle registration enforcement procedures were held with the Oregon Drivers and Motor Vehicle Services Branch (DMV) to insure that all vehicles within the mandate of the I/M Program are tested. These discussions established that implementation of EPA enforcement requirements generally had long lead times, some extending through the year 1997. Informal discussions were held with the American Federation of State, County and Municipal Employees Local 3336 regarding inspector training and disciplinary requirements. The Department also contacted the cities of Portland and Medford regarding parking attendant enforcement procedures used in assessing a penalty for expired vehicle registrations. This type of registration tracking enforcement is required by EPA.

### **Summary of Rulemaking Proposal Presented for Public Hearing and Discussion of Significant Issues Involved.**

The current Oregon vehicle testing program already meets or exceeds the federal requirements for a "basic I/M" program in most technical respects. The Department

proposed a number of changes, to be equivalent to the federal requirement in the areas of 1) computerized testing equipment, 2) inspector training, certification and discipline, and 3) enforcement.

The draft SIP contained a number of areas indicating commitments to establish EPA required enforcement and quality control procedures prior to July 1, 1994. These commitments were made for all issues which the Department believed could not be resolved before the EQC's action on the I/M SIP revision.

### **Summary of Significant Public Comment and Changes Proposed in Response**

The bulk of the significant comments from the public hearings were submitted by EPA. In addition, Dennis Lamb with UNOCAL commented that some of the data input to the Mobile 5A computer model used to calculate I/M benefits were incorrect. The Department investigated and corrected the noted errors. The Mobile 5A model was re-run, and the corrected results included as a part of the final SIP submittal.

EPA's written comments generally concerned the areas in the draft I/M SIP for which the Department had submitted commitments to establish procedures instead of submitting the procedure itself. The major areas of concern are discussed briefly below and in detail in Attachment E. In general, the SIP was not greatly revised from the draft SIP submitted for public comment. The SIP continues to contain a number of commitments for making administrative changes prior to July 1, 1994, the scheduled implementation date for Oregon's updated basic I/M program.

A summary of the outstanding issues which will need to be resolved prior to July 1, 1994 is given below.

There are several categories of vehicles which EPA requires to be subjected to the Oregon I/M test, which Oregon currently does not test.

- 1) Vehicles which are registered in the Oregon I/M area but are primarily operated in an I/M area of another state. When registered, the vehicle must be tested either in Oregon or the other state. (Oregon currently does not have reciprocity agreements with other states.)
- 2) Vehicles which are operated by federal employees on federal installations located within an Oregon I/M area, even if the vehicle owner lives outside the I/M area.

- 3) Fleet vehicles which are registered outside Oregon I/M areas, but which are primarily used within the I/M area.

The first two categories can be included through Oregon rule change after the detailed procedures have been developed with the federal agencies. The third category appears to require a change in Oregon DMV statutes to allow DMV to withhold registration until a vehicle passes the I/M test, when the address of registration is not in an I/M area. Statutory change can not be accomplished before 1995 Oregon legislative session.

The second general issue involves writing procedures for vehicle testing, auditing, record keeping and quality control. All of these procedures will be based on the specific operational details of the vehicle testing equipment which the Department is currently in the process of purchasing.

The third issue involves enforcement procedures to ensure that motorists comply with the I/M testing requirement. This requires a number of procedures which are not currently included in the Oregon I/M program. All of these measures are intended to address vehicle owners who either do not register their vehicle at all, or who register their vehicle illegally outside the I/M boundary in order to avoid the testing procedures. The Department estimates that less than 10 percent of the vehicles fall into one of these categories. (See Attachment E.)

Most of the enforcement measures involve coordination with Oregon DMV to insure all vehicles requiring the I/M test are in fact tested. Some of the items appear to require DMV statutory changes which can not be done before the 1995 legislative session. Many of these issues appear to require changes in the DMV computer operations. DMV is currently updating their computer system to mesh together driver's license records with vehicle registration records. This project is not scheduled to be complete before September 1997. However, computer updates to allow much of the compliance checking required above should be done by the end of 1995. DEQ and DMV are working together to resolve these issues to EPA's satisfaction before July 1, 1994. If the issues cannot be resolved, DEQ may be required to accept less I/M emissions reduction credits.

The final issue involves inspector training and testing, and enforcement against inspectors who purposely pass vehicles which fail the I/M test. EPA's requirements should be met by changes currently found in the attached SIP.

### **Summary of How the Proposed Rule Will Work and How it Will be Implemented**

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The proposed rule requires the Oregon Vehicle Inspection Program to replace existing manual vehicle testing equipment with computerized equipment. In addition a large number of procedural changes both associated with the new testing equipment and also dealing with motorist enforcement issues are proposed.

The new testing equipment is scheduled to be implemented over a two month period, one testing station at a time beginning, in mid-April 1994. Operational procedures associated with this equipment are scheduled to be completed before installation at the first test station. Procedures regarding motorist enforcement and inspector training and discipline procedures are scheduled to be written before mid April 1994.

The Department anticipates submitting an amended SIP which meets the remaining administrative EPA requirements to the Commission in May or June, 1994. Pursuant to recommendations of the Motor Vehicle Emissions Task Force and House Bill 2214 passed in the 1993 Legislature, the Department will also be developing an enhanced I/M program which goes will beyond the requirements for a basic program, to be implemented in 1997.

### **Recommendation for Commission Action**

It is recommended that the Commission adopt the rules amendments regarding Vehicle Inspection Program SIP revisions as presented in Attachment A of the Department Staff Report.

### **Attachments**

- A. Rule (Amendments) Proposed for Adoption
  - 1. Rule
  - 2. SIP
- B. Supporting Procedural Documentation:
  - 1. Legal Notice of Hearing
  - 2. Public Notice of Hearing (Chance to Comment)
  - 3. Rulemaking Statements (Statement of Need)
  - 4. Fiscal and Economic Impact Statement
  - 5. Land Use Evaluation Statement
- C. Presiding Officer's Report on Public Hearing
- D. Written Comments Received
- E. Department's Evaluation of Public Comment

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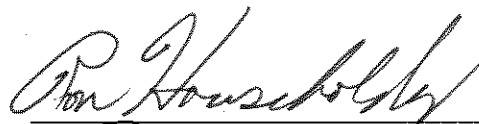
- F. Detailed Changes to Original Rulemaking Proposal made in Response to Public Comment

**Reference Documents (available upon request)**

Written Comments Received (listed in Attachment D)  
(Other Documents supporting rule development process or proposal)

Approved:

Section:



Division:



Report Prepared By: Jerry Coffey

Phone: 731-3049

Date Prepared: September 23, 1993

JC:jc  
SIPEQC2  
9/29/93

**AMENDMENTS TO OAR CHAPTER 340  
DIVISION 24  
MOTOR VEHICLES**

**State of Oregon Facilities Light Duty Motor Vehicle And Heavy Duty Gasoline Motor Vehicle Emission Control Test Method**

**340-24-309**

**(1) General Requirements**

- (a) Exhaust gas sampling algorithm.** The analysis of exhaust gas concentrations shall begin 10 seconds after the applicable test mode begins. Exhaust gas concentrations shall be analyzed at a rate of two times per second. The measured value for pass/fail determinations shall be a simple running average of the measurements taken over five seconds.
- (b) Pass/fail determinations.** A pass or fail determination shall be made for each applicable test mode based on a comparison of the applicable standards listed in OAR 34-24-330 and OAR 340-24-335 and the measured value for HC and CO and described in subsection (1)(a) of this rule. A vehicle shall pass the test mode if any pair of simultaneous values for HC and CO are below or equal to the applicable standards. A vehicle shall fail the test mode if the values for either HC or CO, or both, in all simultaneous pairs of values are above the applicable standards.
- (c) Void test conditions.** The test shall immediately end and any exhaust gas measurements shall be voided if the measured concentration of CO plus CO<sub>2</sub> falls below the applicable standards listed in OAR 340-24-320 and OAR 340-24-325 or the vehicle's engine stalls at any time during the test sequence.
- (d) Multiple exhaust pipes.** Exhaust gas concentrations from vehicle engines equipped with multiple exhaust pipes shall be sampled simultaneously.
- (e) The test shall be immediately terminated upon reaching the overall maximum test time.**

**(2) Test sequence.**

- (a) The test sequence shall consist of a first-chance test and a second chance test as follows:**

  - (A) The first-chance test, as described in section (3) of this rule, shall consist of an idle mode followed by a high-speed mode.**
  - (B) The second-chance high-speed mode, as described in section (3) of this rule, shall immediately follow the first-chance high-speed mode. It shall be performed only if the vehicle fails the first-chance test. The second-chance idle mode, as described in section (4) of this rule, shall follow the second chance high speed mode and be performed only if the vehicle fails the idle mode of the first-chance test.**
- (b) The test sequence shall begin only after the following requirements are met:**

  - (A) The vehicle shall be tested in as-received condition with the transmission in neutral or park and all accessories turned off. The engine shall be at normal operating temperature (as indicated by a temperature gauge, temperature lamp, touch test on the radiator hose, or other visual observation for overheating).**
  - (B) The tachometer shall be attached to the vehicle in accordance with the analyzer manufacturer's instructions.**
  - (C) The sample probe shall be inserted into the vehicle's tailpipe to a minimum depth of 10 inches. If the vehicle's exhaust system prevents insertion to this depth, a tailpipe extension shall be used.**
  - (D) The measured concentration of CO plus CO<sub>2</sub> shall be greater than or equal the standards listed in OAR 340-24-320 and OAR 340-24-325.**



(3) First-chance test and second-chance high-speed mode. The test timer shall start ( $tt=0$ ) when the conditions specified in subsection (2)(b) of this rule are met. The first-chance test and second-chance high-speed mode shall have an overall maximum test time of 390 seconds ( $tt=390$ ). The first-chance test shall consist of an idle mode following immediately by a high-speed mode. This is followed immediately by an additional second-chance high-speed mode, if necessary.

(a) First-chance idle mode.

(A) Except for diesel vehicles, the mode timer shall start ( $mt=0$ ) when the vehicle engine speed is between 550 and 1300 rpm. If engine speed exceeds 1300 rpm or falls below 550 rpm, the mode timer shall reset to zero and resume timing. The minimum idle mode length shall be determined as described in paragraph (3)(a)(B) of this rule. The maximum idle mode length shall be 30 seconds elapsed time ( $mt=30$ ).

(B) The pass/fail analysis shall begin after an elapsed time of 10 seconds ( $mt=10$ ). A pass or fail determination shall be made for the vehicle and the mode terminated as follows:

(i) The vehicle shall pass the idle mode and the mode shall be immediately terminated if, prior to an elapsed time of 30 seconds ( $mt=30$ ), measured values are less or equal to the applicable standards listed in OAR 340-24-330 and OAR 34-24-335.

(ii) The vehicle shall fail the idle mode and the mode shall be terminated if the provisions of subparagraph (3)(a)(B)(i) is not satisfied within an elapsed time of 30 seconds ( $mt=30$ ).

(iii) The vehicle may fail the first-chance and second-chance test shall be omitted if no exhaust gas concentration less than 1800 ppm HC is found by an elapsed time of 30 seconds ( $mt=30$ ).

(b) First-chance and second-chance high-speed modes. This mode includes both the first-chance and second-chance high-speed modes, and follows immediately upon termination of the first-chance idle mode.

(A) Except for diesel vehicles, the mode timer shall reset ( $mt=0$ ) when the vehicle engine speed is between 2200 and 2800 rpm. If engine speed falls below 2200 rpm or exceeds 2800 rpm for more than two seconds in one excursion, or more than six seconds over all excursions within 30 seconds of the final measured value used in the pass/fail determination, the measured value shall be invalidated and the mode continued. If any excursion lasts for more than ten seconds, the mode timer shall reset to zero ( $mt=0$ ) and timing resumed. The minimum high-speed mode length shall be determined as described under paragraphs (3)(b)(B) and (C) of this rule. The maximum high-speed mode length shall be 180 seconds elapsed time ( $mt=180$ ).

(B) Ford Motor Company and Honda vehicles. For 1981-1987 model year Ford Motor Company vehicles and 1984-1985 model year Honda Preludes, the pass/fail analysis shall begin after an elapsed time of 10 seconds ( $mt=10$ ) using the following procedure.

(i) A pass or fail determination, as described below, shall be used, for vehicles that passed the idle mode, to determine whether the high-speed test should be terminated prior to or at the end of an elapsed time of 180 seconds ( $mt=180$ ).

(I) The vehicle shall pass the high-speed mode and the test shall be immediately terminated if, prior to an elapsed time of 30 seconds ( $mt=30$ ), the measured values are less than or equal to applicable standards listed in OAR 34-24-330 and OAR 34-24-335.

- (II) The vehicle shall pass the high-speed mode and the test shall be immediately terminated if, at any point between an elapsed time of 30 seconds (mt=30) and 180 seconds (mt=180), the measured values are less than or equal to the applicable standards listed in OAR 340-24-330 and OAR 340-24-335.
- (III) Restart. If at an elapsed time of 90 seconds (mt=90) the measured values are greater than the applicable standards listed in OAR 340-24-330- and OAR 340-24-335, the vehicle's engine shall be shut off for not more than 10 seconds after returning to idle and then shall be restarted. The probe may be removed from the tailpipe or the sample pump turned off if necessary to reduce analyzer fouling during the restart procedure. The mode timer will stop upon engine shut off (mt=90) and resume upon engine restart. The pass/fail determination shall resume as follows after 100 seconds have elapsed (mt=100).
- (IV) The vehicle shall pass the high-speed mode and the test shall be immediately terminated if, at any point between an elapsed time of 100 seconds (mt=100) and 180 seconds (mt=180), the measured values are less than or equal to the applicable standards listed in OAR 340-24-330 and OAR 340-24-335.
- (V) The vehicle shall fail the high-speed mode and the test shall be terminated if sub-subparagraph (3)(b)(B)(i)(IV) of this rule is not satisfied by an elapsed time of 180 seconds (mt=180).
- (ii) A pass or fail determination shall be made for vehicles that failed the idle mode and the high-speed mode terminated at the end of an elapsed time of 180 seconds (mt=180) as follows:
- (I) The vehicle shall pass the high-speed mode and the mode shall be terminated at an elapsed time of 180 seconds (mt=180) if any measured values of HC and CO exhaust gas concentrations during the high-speed mode are less than or equal to the applicable standards listed in OAR 340-24-330 and OAR 340-24-335.
- (II) Restart. If at an elapsed time of 90 seconds (mt=90) the measured values of HC and CO exhaust gas concentrations during the high-speed mode are greater than the applicable short test standards as described in subsection (1)(b) of this rule, the vehicle's engine shall be shut off for not more than 10 seconds after returning to idle and then shall be restarted. The probe may be removed from the tailpipe or the sample pump turned off it necessary to reduce analyzer fouling during the restart procedure. The mode timer will stop upon engine shut off (mt=90) and resume upon engine restart. The pass/fail determination shall resume as follows after 100 seconds have elapsed (mt=100):

- (III) The vehicle shall pass the high-speed mode and the mode shall be terminated at an elapsed time of 180 seconds (mt=180) if any measured values of HC and CO exhaust gas concentrations during the high-speed mode are less than or equal to the applicable standards listed in OAR 340-24-330 and OAR 340-24-335.
- (IV) The vehicle shall fail the high-speed mode and the test shall be terminated if sub-subparagraph (3)(b)(ii)(III) of this rule is not satisfied by an elapsed time of 180 seconds (mt=180).
- (C) All other light-duty vehicles. The pass/fail analysis for vehicles not specified in paragraph (3)(b)(B) of this rule shall begin after an elapsed time of 10 seconds (mt=10) using the following procedure.
- (i) A pass or fail determination shall be used for 1981 and newer model year vehicles that passed the idle mode, to determine whether the high-speed mode should be terminated prior to or at the end of an elapsed time of 180 seconds (mt=180). For pre-1981 model year vehicles, the duration of the high speed idle mode shall be 30 seconds and no pass or fail determination shall be used at the high speed idle mode.
- (I) The vehicle shall pass the high-speed mode and the test shall be immediately terminated if, prior to an elapsed time of 30 seconds (mt=30), any measured values are less than or equal to the applicable standards listed in OAR 34-24-330 and OAR 340-24-335.
- (II) The vehicle shall pass the high-speed mode and the test shall be immediately terminated if, at any point between an elapsed time of 30 seconds (mt=30) and 180 seconds (mt=180), the measured values are less than or equal to the applicable standards listed in OAR 340-24-330 and OAR 340-24-335.
- (III) The vehicle shall fail the high-speed mode and the test shall be terminated if none of the provisions of sub-subparagraphs (3)(b)(C)(i)(I) and (II) of this rule is satisfied by an elapsed time of 180 seconds (mt=180).
- (ii) A pass or fail determination shall be made for 1981 and newer model year vehicles that failed the idle mode and the high-speed mode terminated at the end of an elapsed time of 180 seconds (mt=180). For pre-1981 model year vehicles, the duration of the high speed idle mode shall be 90 seconds and no pass or fail determination shall be used at the high speed idle mode.
- (I) The vehicle shall pass the high-speed mode and the mode shall be terminated at an elapsed time of 180 seconds (mt=180) if any measured values are less than or equal to the applicable standards listed in OAR 340-24-330 and OAR 340-24-335.
- (II) The vehicle shall fail the high-speed mode and the test shall be terminated if sub-subparagraph (3)(b)(C)(ii)(I) of this rule is not satisfied by an elapsed time of 180 seconds (mt=180).

- (4) Second-chance idle mode. If the vehicle fails the first-chance idle mode and passes the high-speed mode, the mode timer shall reset to zero (mt=0) and a second chance idle mode shall commence. The second-chance idle mode shall have an overall maximum mode time of 30 seconds (mt=30). The test shall consist on an idle mode only.
- (a) The engines of 1981-1987 Ford Motor Company vehicles and 1984-1985 Honda Preludes shall be shut off for not more than 10 seconds and restarted. The probe may be removed from the tailpipe or the sample pump turned off if necessary to reduce analyzer fouling during the restart procedure.
  - (b) Except for diesel vehicles, the mode timer shall start (mt=0) when the vehicle engine speed is between 550 and 1300 rpm. If the engine speed exceeds 1300 rpm or falls below 550 rpm the mode timer shall reset to zero and resume timing. The minimum second-chance idle mode length shall be determined as described in subsection (4)(c) of this rule. The maximum second-chance idle mode length shall be 30 seconds elapsed time (mt=30).
  - (c) The pass/fail analysis shall begin after an elapsed time of 10 seconds (mt=10). A pass or fail determination shall be made for the vehicle and the second-chance mode shall be terminated as follows:
    - (A) The vehicle shall pass the second-chance idle mode and the test shall be immediately terminated if, prior to an elapsed time of 30 seconds (mt=30), any measured values are less than or equal to 100 ppm HC and 0.5 percent CO.
    - (B) The vehicle shall pass the second-chance idle mode and the test shall be terminated at the end of an elapsed time of 30 seconds (mt=30) if, prior to that time, the criteria of paragraph (4)(c)(A) of this rule are not satisfied and the measured values during the time period between 25 and 30 seconds (mt=25-30) are less than or equal to the applicable short test standards listed in OAR 340-24-330 and OAR 340-24-335.
    - (C) The vehicle shall fail the second-chance idle mode and the test shall be terminated if the provisions of paragraph (4)(c)(A) and/or (B) of this rule are satisfied by an elapsed time of 30 seconds (mt=30).
- (5) If the vehicle is capable of being operated with both gasoline and gaseous fuels, then the steps in section (2) of this rule are to be followed so that emission test results are obtained from both fuels.
- (6) If it is judged that the vehicle may be emitting propulsion exhaust noise in excess of the noise standards of OAR 340-24-337, adopted pursuant to ORS 467.030, then a noise measurement is to be conducted and recorded while the engine is at the speed specified in paragraph (3)(b)(A) of this rule. A reading from each exhaust outlet shall be recorded at the raised engine speed. This provision for noise inspection shall apply only with inspection boundaries located within Clackamas, Multnomah and Washington counties.
- (7) If it is determined that the vehicle complies with OAR 340-24-320 through 340-24-337, and ORS 467.030, 468A.350 through 468A.400, 803.350 and 815.295 through 815.325, then, following receipt of the required fees, the vehicle emission inspector shall issue the required Certificate of Compliance.

[NOTE: This rule, excluding section (6) is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 183, 468 & 468A  
Hist.:

## **Motor Vehicle Fleet Operation Light Duty Motor Vehicle Emission Control Test Method**

### **340-24-310**

- (1) The vehicle emission inspector is to insure that the gas analytical system is properly calibrated prior to initiating a vehicle test.

- (2) The Department-approved vehicle information data form is to be completed at the time the motor vehicle is inspected.
- (3) Vehicles having coolant, oil, or fuel leaks or any other such defect that is unsafe to allow the emission test to be conducted shall be rejected from the testing area. The emission test shall not be conducted until the defects are corrected.
- (4) The vehicle transmission is to be placed in neutral gear if equipped with a manual transmission, or in park position if equipped with an automatic transmission. The hand or parking brake is to be engaged. If the brake is found to be defective, then wheel chocks are to be placed in front and behind the vehicle's tires.
- (5) All vehicle accessories are to be turned off.
- (6) An inspection is to be made to insure that the motor vehicle is equipped with the required functioning motor vehicle pollution control system in accordance with the criteria in OAR 340-24-320(3). Vehicles not meeting this criteria upon completion of the testing process, shall have a report issued to the driver stating all reasons for noncompliance.
- (7) With the engine operating at idle speed, the sampling probe of the gas analytical system is to be inserted into the engine exhaust outlet.
- (8) The steady state levels of the gases measured at idle speed by the gas analytical system shall be recorded. Except for diesel vehicles, the idle speed at which the gas measurements were made shall also be recorded.
- (9) Except for diesel vehicles, the engine is to be accelerated with no external loading applied, to a speed of between 2,200 RPM and 2,800 RPM. The engine speed is to be maintained at a steady speed within this speed range for a 10- to 15-second period and then returned to an idle speed condition. In the case of a diesel vehicle, the engine is to be accelerated to an above-idle speed. The engine speed is to be maintained at a steady above-idle speed for a 10- to 15-second period and then returned to an idle speed condition. The values measured by the gas analytical system at the raised rpm speed shall be recorded.
- (10) The steady-state levels of the gases measured at idle speed by the gas analytical system shall be recorded. Except for diesel vehicles, the idle speed at which the gas measurements were made shall also be recorded.
- (11) If the vehicle is equipped with a multiple-exhaust system, then the steps in sections (7) through (10) of this rule are to be repeated on the other exhaust outlet(s). The readings from the exhaust outlet, or the average reading from the exhaust outlets are to be compared to the standards of OAR 340-24-330.
- (12) If the vehicle does not comply with the standards specified in OAR 340-24-330, and it is a 1981 through 1987 Ford Motor Company vehicle, or if it is a 1984 or 1985 Honda Prelude, the vehicle shall have the ignition turned off, be restarted, and have the steps in sections (8) through (11) of this rule repeated.
- (13) If the vehicle is capable of being operated with both gasoline and gaseous fuels, then the steps in sections (7) through (10) of this rule are to be repeated so that emission test results are obtained for both fuels.
- (14) If it is judged that the vehicle may be emitting propulsion exhaust noise in excess of the noise standards of OAR 340-24-337, adopted pursuant to ORS 467.030, then a noise measurement is to be conducted and recorded while the engine is at the speed specified in section (9) of this rule. A reading from each exhaust outlet shall be recorded at the raised engine speed. This provision for noise inspection shall apply only within inspection boundaries located within Clackamas, Multnomah and Washington counties.
- (15) If it is determined that the vehicle complies with OAR 340-24-320, 340-24-330, and 340-24-337, and ORS 467.030, 468A.350 through 468A.400, 803.350 and 815.295 through 815.325, then, following receipt of the required fees, the vehicle emission inspector shall issue the required Certificates of Compliance.

[NOTE: This rule, excluding section (14) is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 183, 468 & 468A

## **Motor Vehicle Fleet Operation Heavy Duty Gasoline Motor Vehicle Emission Control Test Method**

### **340-24-315**

- (1) The vehicle emission inspector is to insure that the gas analytical system is properly calibrated prior to initiating a vehicle test.
- (2) The Department-approved vehicle information data form is to be completed at the time of the motor vehicle being inspected.
- (3) Vehicles having defects which make it unsafe to allow the emission test to be conducted shall be rejected from the testing area. The emission test shall not be conducted until the defects are corrected.
- (4) The vehicle transmission is to be placed in neutral gear if equipped with a manual transmission, or in park position if equipped with an automatic transmission. The hand or parking brake is to be engaged. If the brake is found to be defective, then wheel chocks are to be placed in front and behind the vehicle's tires.
- (5) All vehicle accessories are to be turned off.
- (6) An inspection is to be made to insure that the motor vehicle is equipped with the required functioning motor vehicle pollution control system in accordance with the criteria of OAR 340-24-325.
- (7) With the engine operating at idle speed, the sampling probe of the gas analytical system is to be inserted into the engine exhaust outlet.
- (8) The steady state levels of the gases measured at idle speed by the gas analytical system shall be recorded. The idle speed at which the gas measurements were made shall also be recorded.
- (9) The engine is to be accelerated, with no external loading applied, to a speed of between 2,200 RPM and 2,71800 RPM. The engine speed is to be maintained at a constant speed within this range for sufficient time to achieve a steady-state condition whereupon the steady-state levels of the gases measured by the gas analytical system shall be recorded on the Department-approved vehicle information form. The engine speed shall then be returned to an idle speed condition.
- (10) The steady-state levels of the gases measured at idle speed by the gas analytical system shall be recorded on the Department-approved vehicle information form. The idle speed at which the gas measurements were made shall also be recorded.
- (11) If the vehicle is equipped with a multiple-exhaust system, then the steps in sections (6) through (9) of this rule are to be repeated on the other exhaust outlet(s). The readings from the exhaust outlets are to be averaged to determine a single reading for each gas measured in the steps in sections (8) and (9) of this rule.
- (12) The reading from the exhaust outlet, or the average reading from the exhaust outlets obtained in the steps in sections (8) and (9) of this rule are to be compared to the standards of OAR 340-24-335.
- (13) If the motor vehicle is capable of being operated with both gasoline and gaseous fuels, then the steps in sections (6) through (9) of this rule are to be repeated so that emission test results are obtained for both fuels.
- (14) If it is ascertained that the motor vehicle may be emitting noise in excess of the noise standards adopted pursuant to ORS 467.030, then a noise measurement is to be conducted in accordance with the test procedures adopted by the Commission or to standard methods approved in writing by the Department.
- (15) If it is determined that the motor vehicle complies with OAR 340-24-325 and 340-24-335, and ORS 468A.350 through 468A.400, 803.350 and 815.295 through 815.325, then, following receipt of the required fees, the vehicle emission inspector shall issue the required Certificate of Compliance.
- (16) Any motor vehicle registered on less than an annual basis pursuant to ORS 803.040 need not pass more than an annual inspection to assure compliance with ORS 815.300. Such vehicles shall be issued a Certificate of Compliance in a form provided by the Department

stating that the vehicle passed inspection by the Department on a certain date and was in compliance with the standards of the Commission, and having no information to the contrary, presumes the continuance of such compliance at the date of the issuance of the Certificate through four consecutive quarterly periods.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 183, 468 & 468A

Hist.: DEQ 136, f. 6-10-77, ef. 7-1-77; DEQ 20-1981, f. 7-28-81, ef. 8-1-81; DEQ 12-1982, f. & ef. 7-21-82; DEQ 19-1983, f. 11-29-83, ef. 12-31-83; AQ 1-1993, f. & ef. 3-9-93

## Light Duty Motor Vehicle Emission Control Test Criteria

### 340-24-320

- (1) No vehicle emission control test shall be considered valid if the vehicle exhaust system leaks in such a manner as to dilute the exhaust gas being sampled by the gas analytical system. For the purpose of the emission control tests conducted at state facilities, except for diesel vehicles, tests will not be considered valid if the exhaust gas is diluted to such an extent that the sum of the carbon monoxide and carbon dioxide concentrations recorded for the idle speed reading from an exhaust outlet is eight percent or less, and on 1975 and newer vehicles with air injection systems seven percent or less.
- (2) No vehicle emission control test shall be considered valid if the engine idle speed ~~either~~ exceeds the manufacturer's idle speed specifications by over 200 RPM ~~on 1972 and newer model vehicles~~.
- (3) (a) No vehicle emission control test for a 1975 or newer model vehicle shall be considered valid if any element of the following factory-installed motor vehicle pollution control systems have been disconnected, plugged, or otherwise made inoperative in violation of ORS 815.305(1), except that for 1975 through 1980 model year vehicles the inspection shall be limited to the catalytic converter system and fuel filler inlet restrictor listed below, and as noted in ORS 815.305(2) or as provided for by **40 CFR 85.1701-1709 (published July 1, 1991)**. Motor vehicle pollution control systems include, but are not necessarily limited to:
  - (A) Positive crankcase ventilation (PCV) system;
  - (B) Exhaust modifier system, including:
    - (i) Air injection reactor system;
    - (ii) Thermal reactor system; and
    - (iii) Catalytic converter system;
  - (C) Exhaust gas recirculation (EGR) systems;
  - (D) Evaporative control system;
  - (E) Spark timing system, including:
    - (i) vacuum advance system; and
    - (ii) vacuum retard system; ~~and~~
  - (F) Special emission control devices, including:
    - (i) Orifice spark advance control (OSAC);
    - (ii) Speed control switch (SCS);
    - (iii) Thermostatic air cleaner (TAC);
    - (iv) Transmission controlled spark (TCS);
    - (v) Throttle solenoid control (TSC);
    - (vi) Fuel filler inlet restrictor;
    - (vii) Oxygen sensor; and
    - (viii) Emission control computer.
- (b) The Department may provide alternative criteria for those required under subsection (a) of this section when it can be determined that the component or an acceptable alternative is unavailable. Such alternative criteria may be granted on the basis of the nonavailability of the original part, replacement part, or comparable alternative solution.

- (4) No vehicle emission control test for a 1981 or newer model year vehicle shall be considered valid if any element of the factory installed motor vehicle pollution control system has been modified or altered in such a manner so as to decrease its efficiency or effectiveness in the control of air pollution in violation of ORS 815.305(1), except as noted in ORS 815.305(2). For the purposes of this section, the following apply:
- (a) The use of a nonoriginal equipment aftermarket part (including a rebuilt part) as a replacement part is not considered to be a violation of ORS 815.305, if a reasonable basis exists for knowing that such use will not adversely effect emission control efficiency. The Department will maintain a listing of those parts which have been determined to adversely effect emission control efficiency;
  - (b) The use of a nonoriginal equipment aftermarket part or system as a add-on, auxiliary, augmenting, or secondary part of system, is not considered to be a violation of ORS ~~483.825(2)~~**815.305**, if such part or system is on the exemption list of "Modifications to Motor Vehicle Emission Control Systems Exempted Under California Vehicle Code Section 27156" granted by the Air Resources Board, or is on the list maintained by the U.S. Environmental Protection Agency of "Certified to EPA Standards", or has been determined after review of testing data by the Department that there is no decrease in the efficiency or effectiveness in the control of air pollution;
  - (c) Adjustments or alterations of particular part or system parameter, if done for purposes of maintenance or repair according to the vehicle or engine manufacturer's instructions, are not considered violations of ORS 815.305.
- (5) A 1981 and newer model vehicle which has been converted to operate on gaseous fuels shall not be considered in violation of ORS 815.305 when elements of the factory-installed motor vehicle air pollution control system are disconnected for the purpose of conversion to gaseous fuel as authorized by ORS 815.305.
- (6) If a vehicle older than the 1981 model year is now equipped with other than the original engine and factory installed vehicle~~s~~ pollution control systems, the vehicle for the purposes of determining test standards, shall be classified by the vehicle's original model year classification and current fuel system.
- (7) A 1981 and newer vehicle shall be classified by the model year and make of the vehicle as designated by the original chassis, engine, and its factory installed motor vehicle pollution control systems, or equivalent. This in no way prohibits the vehicle owner from upgrading the engine and emission control system to a more recent model year category including a diesel (compression ignition) power plant providing that all of the new factory installed pollution control system is maintained.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]

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

Stat. Auth: ORS Ch. 183, 468 & 468A

Hist:

## Light Duty Motor Vehicle Emission Control Standards

### 340-24-330

- (1) Light Duty Diesel Motor Vehicle Emission Control Standards: All - 1.~~10~~**15**% CO - No HC Check
- (2) Light Duty Gasoline Motor Vehicle Emission Control Standards: Two Stroke Cycle: All - ~~6.5~~**7.0**% CO - No HC Check
- (3) Light Duty Gasoline Motor Vehicle Emission Control Standards: Four Stroke Cycle - Passenger Cars:
  - (a) Pre 1968 Model Year:
    - (A) Four or less cylinders: All: ~~6.5~~**7.0**% CO - 1,~~550~~**600** ppm HC
    - (B) More than four cylinders: All - 6.~~10~~**15**% CO - 1,~~250~~**300** ppm HC
  - (b) 1968 - 1969 Model Year:



- (A) Four or less cylinders: All - ~~{5.5}~~6.0% CO - ~~{850}~~900 ppm HC
- (B) More than four cylinders: All - ~~5.0~~5% CO - ~~{650}~~700 ppm HC
- (c) 1970 - 1971 Model Year: All - ~~{4.5}~~5.0% CO - ~~{550}~~600 ppm HC
- (d) 1972 - 1974 Model Year:
  - (i) ~~{4}~~four or less cylinders: All - ~~4.0~~5% CO - ~~{450}~~500 ppm HC
  - (ii) More than ~~{4}~~four cylinders: All - ~~3.0~~5% CO - ~~{350}~~400 ppm HC
- (e) 1975 - 1980 Model Year:
  - (A) With Catalyst: All ~~{0.5}~~1.0% CO - ~~{175}~~220 ppm HC
  - (B) Without Catalyst: All ~~2.0~~5% CO - ~~{250}~~300 ppm HC
- (f) 1981 and Newer Model Year: All:
  - (A) At idle - ~~{0.5}~~1.0% CO - ~~{175}~~220 ppm HC
  - (B) At 2,500 RPM - ~~{0.5}~~1.0% CO - ~~{175}~~220 ppm HC
- (4) Light Duty Gasoline Motor Vehicle Emission Control Standards - Light Duty Trucks:
  - (a) 6,000 GVWR or less:
    - (A) Pre 1968 Model Year:
      - (i) Four or less cylinders: All - ~~{6.5}~~7.0% CO - ~~1,550~~600 ppm HC
      - (ii) More than four cylinders: All - ~~{6.5}~~7.0% CO - ~~1,250~~300 ppm HC
    - (B) 1968 - 1969 Model Year:
      - (i) Four or less cylinders: All - ~~{5.5}~~6.0% CO - ~~{850}~~900 ppm HC
      - (ii) More than four cylinders: All - ~~5.0~~5% CO - ~~{650}~~700 ppm HC
    - (C) 1970 - 1971 Model Year: All - ~~{4.5}~~5.0% CO - ~~{550}~~600 ppm HC
    - (D) 1972 - 1974 Model Year:
      - (i) Four or less cylinders: All - ~~4.0~~5% CO - ~~{450}~~500 ppm HC
      - (ii) More than four cylinders: All - ~~3.0~~5% CO - ~~{350}~~400 ppm HC
    - (E) 1975 - 1980 Model Year:
      - (i) With Catalyst: All - ~~{0.5}~~1.0% CO - ~~{175}~~220 ppm HC
      - (ii) Without Catalyst: All - ~~2.0~~5% CO - ~~{250}~~300 ppm HC
    - (F) 1981 and Newer Model Year: All:
      - (i) At idle - ~~{0.5}~~1.0% CO - ~~{175}~~220 ppm HC
      - (ii) At 2,500 rpm - ~~{0.5}~~1.0% CO - ~~{175}~~220 ppm HC
  - (b) 6,001 to 8,500 GVWR:
    - (A) Pre 1968 Model Year: All - ~~6.0~~5% CO - ~~1,250~~300 ppm HC
    - (B) 1968 - 1969 Model Year: All - ~~5.0~~5% CO - ~~{650}~~700 ppm HC
    - (C) 1970 - 1971 Model Year: All - ~~{4.5}~~5.0% CO - ~~{550}~~600 ppm HC
    - (D) 1972 - 1974 Model Year: All - ~~3.0~~5% CO - ~~{350}~~400 ppm HC
    - (E) 1975 - 1978 Model Year: All - ~~2.0~~5% CO - ~~{250}~~300 ppm HC
    - (F) 1979 - 1980 Model Year:
      - (i) With Catalyst: All - ~~{0.5}~~1.0% CO - ~~{175}~~220 ppm HC
      - (ii) Without Catalyst: All - ~~2.0~~5% CO - ~~{250}~~300 ppm HC
    - (G) 1981 and Newer: All:
      - (i) At idle - ~~{0.5}~~1.0% CO - ~~{175}~~220 ppm HC
      - (ii) At 2,500 rpm - ~~{0.5}~~1.0% CO - ~~{175}~~220 ppm HC

~~{5} An enforcement tolerance of 0.5% carbon monoxide and 50 ppm hydrocarbon will be added to the standards in sections (1) through (4) of this rule.~~

~~{6}5~~ There shall be no visible emission during the steady-state unloaded and raised rpm engine idle portions of the emission test from either the vehicle's exhaust system or the engine crankcase. In the case of diesel engines and two-stroke cycle engines, the allowable visible emission shall be no greater than 20% opacity.

~~{7}6~~ The Director may establish specific separate standards, differing from those listed in sections (1) through ~~{6}5~~ of this rule for vehicle classes which are determined to present prohibitive inspection problems using the listed standards.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.:

## Heavy-Duty Gasoline Motor Vehicle Emission Control ~~Emission~~ Standards

### 340-24-335

- (1) Carbon monoxide idle emission values not to be exceeded: ~~[All Vehicles:]~~
  - (a) Pre~~[ ]~~ 1970 Model Year: ~~[Base Standard—]6.0% [CO Enforcement Tolerance—0.5.]~~
  - (b) 1970 ~~[through]~~ 1973 Model Year: ~~[Base Standard—]4.5.0% [CO Enforcement Tolerance—1.0.]~~
  - (c) 1974 ~~[through]~~ 1978 Model Year: ~~[Base Standard—]3.4.0% [CO Enforcement Tolerance—1.0.]~~
  - (d) 1979 and ~~[n]~~ Newer Model Year without catalyst: ~~[Base Standard—]2.3.0% [ Enforcement Tolerance—1.0.]~~
  - (e) 1985 and ~~[n]~~ Newer Model Year with catalyst: ~~[Base Standard - ]0.5.1.0% [ Enforcement Tolerance—0.5.]~~
- (2) Carbon Monoxide nominal 2,500 rpm emission values not to be exceeded:~~[All Vehicles:]~~
  - (a) Pre~~[ ]~~ 1970 Model Year: ~~[Base Standard—]3.4.0% [ Enforcement Tolerance—1.0.]~~
  - (b) 1970 and ~~[n]~~ Newer Model Year without catalyst with carburetor: ~~[Base Standard—]2.3.0% [ Enforcement Tolerance—1.0.]~~
  - (c) 1970 and ~~[n]~~ Newer Model Year without catalyst with fuel injection: No Check.
  - (d) 1985 and ~~[n]~~ Newer Model Year with catalyst: ~~[Base Standard—0.5]1.0% [ Enforcement Tolerance—0.5.]~~
- (3) Hydrocarbon idle emission values not to be exceeded:~~[All Vehicles:]~~
  - (a) Pre~~[ ]~~ 1970 Model Year: ~~[Base Standard PPM—]7.900 PPM [ Enforcement Tolerance—200.]~~
  - (b) 1970 ~~[through]~~ 1973 Model Year: ~~[Base Standard PPM—]5.700 PPM [ Enforcement Tolerance—200.]~~
  - (c) 1974 ~~[through]~~ 1978 Model Year: ~~[Base Standard PPM—]3.500 PPM [ Enforcement Tolerance—200.]~~
  - (d) 1979 and ~~[n]~~ Newer Model Year without catalyst: ~~[Base Standard PPM—]2.350 PPM [ Enforcement Tolerance—100.]~~
  - (e) 1985 and ~~[n]~~ Newer Model Year with catalyst: ~~[Base Standard PPM—]175— Enforcement Tolerance—50.]220 PPM~~
- (4) Hydrocarbon nominal 2,500 ~~[RPM]~~rpm emission values not be exceed: 1985 and ~~[n]~~ Newer Model Year with catalyst: ~~[Base Standard PPM—175— Enforcement Tolerance PPM—50.]220 PPM~~
- (5) There shall be no visible emission during the steady-state unloaded engine idle and raised rpm portion of the emission test from either the vehicle's exhaust system or the engine crankcase.
- (6) The Director may establish specific separate standards, differing from those listed in sections (1) through (4) of this rule for vehicle classes which are determined to present prohibitive inspection problems using the listed standards.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.:

# Criteria for Qualifications of Persons Eligible to Inspect Motor Vehicles and Motor Vehicle Pollution Control Systems and Execute Certificates

340-24-340

- (1) Three separate classes of licenses are established as follows:
  - (a) Motor vehicle fleet operations;
  - (b) Fleet operation vehicle emission inspector;
  - (c) State-employed vehicle emission inspector.
- (2) Application for a license must be completed on a form provided by the Department.
- (3)
  - (a) Each motor vehicle fleet operation license shall be valid through December 31 of each year unless revoked, suspended, or returned to the Department;
  - (b) Each vehicle emission inspector license shall be valid through December 31 of every other year unless revoked, suspended, or returned to the Department.
- (4) No license shall be issued until the applicant has fulfilled all requirements and paid the required fee.
- (5) No license shall be transferable.
- (6) Each license may be renewed upon application and receipt of renewal fee if the application for renewal is made within the 30-day period prior to the expiration date and the applicant complies with all other licensing requirements.
- (7) A license may be suspended, revoked, or not renewed if the licensee has violated this Division or ORS 468A.350 to 468A.400, 815.295 to 815.325.
- (8) A fleet operation vehicle emission inspector license shall be valid only for inspection of, and execution of certificates for, motor vehicle pollution control systems and motor vehicles of the motor vehicle fleet operation by which the inspector is employed on a full time basis, except: A fleet operation vehicle emission inspector employed by a governmental agency may be authorized by the Department to perform inspections and execute Certificates of Compliance for vehicles of other governmental agencies that have contracted with that agency for that service and that contract having the approval of the Director.
- (9) Inspector training and licensing or certification. To initially receive or renew a license as a vehicle emission inspector, the applicant must be an employee of the Vehicle Inspection Program of the Department or an employee of a licensed motor vehicle fleet operation and complete an application. All inspectors shall receive formal training and be licensed or certified to perform inspections.
  - (a) Training.
    - (A) Inspector training shall impart knowledge of the following:
      - (I) The air pollution problems, its causes and effects;
      - (II) The purpose, function and goal of the inspection program;
      - (III) Inspection regulations and procedures;
      - (IV) Technical details of the test procedure and the rationale for their design;
      - (V) Test equipment operation, calibration and maintenance;
      - (VI) Emission control device function, configuration and inspection;
      - (VII) Quality control procedures and their purpose;
      - (VIII) Public relations; and
      - (IX) Safety and health issues related to the inspection process.
    - (B) In order to complete the training requirement, a trainee shall pass (minimum of 80% correct responses) a written test covering all aspects of the training. In addition, a hands-on test shall be administered in which the trainee demonstrates without assistance the ability to conduct a proper inspection, to properly utilize equipment and to follow other procedures. Inability to properly conduct all test procedures shall constitute failure of the test. The Department shall take appropriate steps to insure the security and integrity of the testing process.
  - (b) Licensing and certification.

- (A) All inspectors shall be either licensed or certified by the Department in order to perform official inspections.
  - (B) Completion of inspector training and passing required tests shall be a condition of licensing or certification.
  - (C) Inspector licenses and certificates shall be valid for no more than 2 years, at which point refresher training and testing shall be required prior to renewal. Alternative approaches based on more comprehensive skill examination and determination of inspector competency may be used.
  - (D) Licenses or certificates shall not be considered a legal right but rather a privilege bestowed by the Department conditional upon adherence to Department requirements.
- (c) Enforcement against inspectors. Enforcement against licensed inspectors shall include swift, sure, effective, and consistent penalties for violation of program requirements.
- (A) Substantial penalties shall be imposed on the first offense for violations that directly affect emission reduction benefits. At a minimum, whenever a vehicle is intentionally improperly passed for any required portion of the test, inspectors shall be removed from inspector duty for at least 6 months or a retainage penalty equivalent to the inspector's salary for that period shall be imposed.
  - (B) License or certificate suspension or revocation shall mean the individual is barred from direct or indirect involvement in any inspection operation during the term of the suspension or revocation.

~~[To initially receive or renew a license as a vehicle emission inspector, the applicant must:~~

- ~~(a) Be an employee of the Vehicle Inspection Program of the Department; or~~
- ~~(b) Be an employee of a licensed motor vehicle fleet operation;~~
- ~~(c) Complete application;~~
- ~~(d) Satisfactorily complete a training program conducted by the Department. Only persons employed by the Department or by a motor vehicle fleet operation shall be eligible to participate in the training program unless otherwise approved by the Director. The duration of the training program for persons employed by a motor vehicle fleet operation shall not exceed 24 hours;~~
- ~~(e) At the completion of this training program, satisfactorily complete an examination pertaining to the inspection program requirements. This examination shall be prepared, conducted, and graded by the Department.]~~

(10) To be licensed as a motor vehicle fleet operation, the applicant must:

- (a) Be the owner of 100 or more Oregon registered in-use motor vehicles, or 50 or more government-owned vehicles registered pursuant to ORS 805.040;
- (b) Be equipped with an exhaust gas analyzer complying with criteria established in OAR 340-24-350;
- (c) Be equipped with a sound level meter conforming to "Requirements for Sound Measuring Instruments and Personnel" (NPCS-2) manual, revised September 15, 1974, of this Department.

(11) No person licensed as a motor vehicle fleet operation shall advertise or represent himself as being licensed to inspect motor vehicles to determine compliance with the criteria and standards of OAR 340-24-320 and 340-24-330.

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

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 183, 468 & 468A

## **Motor Vehicle Fleet Operation Gas Analytical System Licensing Criteria** **340-24-350**

- (1) To be licensed, an exhaust gas analyzer must:
  - (a) Conform substantially with the technical specifications contained in the document "**The California Bureau of Automotive Repair Exhaust Gas Analyzer Specification - 1979**" on file in the office of the Vehicle Inspection Program of the Department.
  - (b) Be owned by the licensed motor vehicle fleet operation ~~for the Department~~;
  - (c) Be span gas calibrated and leak checked within a 14-calendar-day period prior to the test date by the licensed inspector. The calibration and leak check is to be performed following the analyzer manufacturer's specified procedures. The manufacturer's operation manual and calibration and leak check procedures are defined as an integral part of the analyzer, and shall be kept with the analyzer at all times. The date of calibration and leak check and the inspector's initials are to be recorded on a form provided by the Department for verification. Prior to any day of testing for the purposes of issuing a Certificate of Compliance, the analyzer shall be mechanically checked and corrected for zero and span drift once a day prior to performing the day's first vehicle exhaust gas inspection.
- (2) Application for a license must be completed on a form provided by the Department.
- (3) Each license issued for an exhaust gas analyzer shall be valid through December 31 of each year, unless returned to the Department or revoked.
- (4) A license for an exhaust gas analyzer system shall be renewed upon submission of a statement by the motor vehicle fleet operation that all conditions pertaining to the original license issuance are still valid and that the unit has been gas calibrated and its proper operation verified within the last 30 days by a vehicle emission inspector in their employment.
- (5) Grounds for revocation of a license issued for an exhaust gas analyzer system include the following:
  - (a) The unit has been altered, damaged, or modified so as to no longer conform with the specifications of subsection (1)(a) of this rule;
  - (b) The unit is no longer owned by the motor vehicle fleet operation to which the license was issued;
  - (c) The Department verifies that a Certificate of Compliance has been issued to a vehicle which has been emission tested by an analyzer that has not met the requirements of subsection (1)(c) of this rule.
- (6) No license shall be transferable.
- (7) No license shall be issued until all requirements of section (1) of this rule are fulfilled and required fees paid.
- (8) Effective January 1, 1999, gas analytical systems used by licensed motor vehicle fleet operations must meet the criteria established in OAR 340-24-355.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]

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

Stat. Auth.: ORS Ch. 183, 468 & 468A

Hist.: DEQ 89, f. 4-22-75, ef. 5-25-75; DEQ 136, f. 6-10-77, ef. 7-1-77; DEQ 9-1978, f. & ef. 7-7-78; DEQ 14-1978, f. & ef. 10-3-78; DEQ 6-1980, f. & ef. 1-29-80; DEQ 20-1981, f. 7-28-81, ef. 8-1-81; DEQ 19-1983, f. 11-29-83, ef. 12-31-83; DEQ 6-1985, f. & ef. 5-1-85; DEQ 21-1988, f. & cert. ef. 9-12-88; AQ 1-1993, f. & ef. 3-9-93

## **State of Oregon Facilities Gas Analytical System Licensing Criteria** **340-24-355**

- (1) Test equipment. Computerized test systems are required for performing any measurement on subject vehicles.

- (a) Performance features of computerized test systems. The test equipment shall be certified to meet the requirements contained in 40 CFR Part 51 Appendix D (November 5, 1992) and new equipment shall be subjected to acceptance test procedures to ensure compliance with program specifications.
- (A) Emission test equipment shall be capable of testing all subject vehicles and shall be updated from time to time to accommodate new technology vehicles as well as changes to the Vehicle Inspection Program.
  - (B) At a minimum, emission test equipment:
    - (i) Shall be automated to the highest degree commercially available to minimize the potential for intentional fraud and/or human error;
    - (ii) Shall be secure from tampering and/or abuse;
    - (iii) Shall be based upon written specifications; and
    - (iv) Shall be capable of simultaneously sampling dual exhaust vehicles.
  - (C) The vehicle owner or driver shall be provided with a computer-generated record of test results, including all of the items listed in 40 CFR Part 85, subpart W as being required on the test record. The test report shall include:
    - (i) A vehicle description, including license plate number, vehicle identification number, and odometer reading;
    - (ii) The date and time of the test;
    - (iii) The name or identification number of individual(s) performing the tests and the location of the test station and lane;
    - (iv) The type of test performed, including emission tests, visual checks for the presence of emission control components, and functional, evaporative checks;
    - (v) The applicable test standards;
    - (vi) A statement indicating the availability of warranty coverage as required in section 207 of the Clean Air Act;
    - (vii) Certification that tests were performed in accordance with the regulations and the signature of the individual who performed the test; and
    - (ix) For vehicles that fail the tailpipe emission test, information on the possible causes of the specific pattern of high emission levels found during the test.
- (2) Functional characteristics of computerized test systems. The test system is composed of emission measurement devices and other motor vehicle test equipment controlled by a computer.
- (a) The test system shall automatically:
    - (A) Make a pass/fail decision for all measurements;
    - (B) Record test data to an electronic medium;
    - (C) Conduct regular self-testing of recording accuracy;
    - (D) Perform electrical calibration and system integrity checks before each test, as applicable; and
    - (E) Initiate system lockouts for:
      - (i) Tampering with security aspects of the test system;
      - (ii) Failing to conduct or pass periodic calibration or leak checks; and
      - (iii) A full data recording medium or one that does not pass a cyclical redundancy check.
  - (b) The test system shall insure accurate data collection by limiting, cross-checking; and/or confirming manual data entry.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]

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

Stat. Auth.: ORS Ch. 183, 468 & 468A

Hist.:

## SIP REVISION

## 5.4 Motor Vehicle Inspection and Maintenance

## 5.4.1 Applicability

Inspection/Maintenance (I/M) programs are operated in the Portland and Medford urban areas within the state of Oregon. A program meeting basic I/M requirements will be operated in both areas. This I/M program will remain in effect until a redesignation is made that demonstrates that the subject areas can maintain the ambient carbon monoxide and ozone standards for the maintenance period without the emission reductions attributable to the I/M program.

The Portland I/M boundary is that of the Metropolitan Service District (MSD), incorporating portions of Clackamas, Multnomah and Washington Counties. The 1990 population of the MSD, estimated from the 1990 federal census is 1,051,817. Appendix A contains a list of all the U.S. postal zip codes included in whole or in part within the Portland I/M area. It also contains a map of the Portland I/M area. The Portland I/M program consists of six testing centers and a total of 21 test lanes.

The Medford I/M boundary is that of the Medford-Ashland Air Quality Maintenance Area (AQMA) which includes approximately 85 percent of the population of Jackson County. The 1990 AQMA population, estimated from the 1990 federal census is 124,430. Appendix A contains a list of all the U.S. postal zip codes included in whole or in part within the Medford I/M area. It also contains a map of the Medford I/M area. The Medford I/M program consists of one testing center with three test lanes.

The legal authority for the I/M program is included in Section 2.2.11 of the State Implementation Plan (SIP) in Oregon Revised Statutes 468A.360 to 468A.405, ORS 803.070 through 803.375 and ORS 815.095 through 815.325. Regulations for program operations, Oregon Administrative Rules 340-24-005 through 340-24-350, are in Section 2.2.7 of the SIP. The rules were revised to meet the requirements for a basic program as outlined in EPA Inspection/Maintenance Program Requirements; Final Rule (40 CFR Part 51, 1993). This rules revision was approved by the Oregon Environmental Quality Commission on October 29, 1993.



#### 5.4.2 Basic I/M Performance Standard

Appendix B contains the input and output files for Mobile 5A runs performed to evaluate the emission reduction benefits of the I/M areas in the State of Oregon. Appendix C shows the local inputs to the model including their source and derivation. The table below summarizes the projected emission factor levels at the attainment date for the program for each I/M area:

##### Portland I/M Area

	January 1	1997
VOC		
Without I/M Program		3.05 g/mi
Performance Standard		2.67 g/mi
Program Target		2.54 g/mi

	January 1	1996
CO		
Without I/M Program		28.04 g/mi
Performance Standard		22.66 g/mi
Program Target		22.09 g/mi

	January 1	1997
NOx		
Without I/M Program		2.45 g/mi
Performance Standard		2.41 g/mi
Program Target		2.38 g/mi

##### Medford I/M Area

	January 1	1996
CO		
Without I/M Program		33.73 g/mi
Performance Standard		26.88 g/mi
Program Target		26.64 g/mi

The I/M programs meet the emission reduction targets in the attainment year. The State of Oregon commits to meeting the performance standard during actual implementation of the revised basic programs.

#### 5.4.3 Network Type and Program Evaluations

In both the Portland and Medford areas, I/M programs will be basic centralized, test-only programs operated by the Department of Environmental Quality (DEQ).

The Oregon I/M programs, in both Portland and Medford,

operate fleet self-testing programs with oversight by DEQ employees. In Portland, there are currently 50 fleets which test 10,306 vehicles. In Medford, there are currently 10 fleets, testing 1,069 vehicles.

#### 5.4.4 Adequate Tools and Resources

The I/M program as stipulated in ORS 468A.405 is funded solely by collection of fees from vehicle owners at the time of passing the I/M test. These fees are to be adjusted by the Oregon Environmental Quality Commission to cover the costs of administering the I/M program. The current fee is \$10 per certificate issued for DEQ inspected vehicles and \$5 each for certificates issued by fleets.

The fees are collected and deposited on a monthly basis into the Department of Environmental Quality Motor Vehicle Pollution Account. The monies from this account are continuously appropriated to the Department to be used solely for operations related to the I/M program.

Appendix D shows the proposed budget for the vehicle inspection program operations. DEQ expects to maintain staffing levels approximately as follows:

Overt and covert auditing	0.8	FTE
Date Collection and analysis	0.2	FTE
Performance monitoring	0.8	FTE
Technician assistance	0.5	FTE
Consumer assistance	0.6	FTE
Waiver oversight	N/A	
Employee management	1.7	FTE
Building Maintenance	2.0	FTE
Testing Equipment Maintenance and Quality Control	2.0	FTE
Special Technical Projects	0.4	FTE
Rule Development	0.4	FTE
Fleet Oversight	0.6	FTE
Public Response & Records Keeping	1.0	FTE
DEQ Testing Inspectors	44.0	FTE

The DEQ Vehicle Inspection Program operates the I/M program including overseeing the construction of testing facilities, purchasing of testing equipment, development of testing procedures, actual testing of vehicles and oversight of program operations. Currently, none of the vehicle testing operations (except self-inspecting fleet testing) is contracted to a source outside the Department.

The DEQ expects to allocate 0.2 FTE to the oversight of the registration denial enforcement mechanism. This is included in above FTE summary.

#### 5.4.5 Test Frequency and Convenience

The test frequency is biennial for all subject vehicles. For new vehicles the first test is required for reregistration two years after initial registration. Since the inspection program has been operating in this manner since 1975, no special vehicle testing sequence scheme is required to accomplish a steady month to month flow of vehicles. Vehicles are merely reregistered periodically two years after the previous registration. Used vehicles newly arriving into the I/M area are required to be inspected and registered within 30 days of establishing residence if the vehicle does not have an Oregon license plate. Such vehicles with Oregon plates are not tested until current registration expires. Statutory authority is contained in ORS 803.400, 803.415 and 803.350 which are shown in Appendix E.

The inspection is required within 90 days prior to expiration of vehicle registration. Registration is good for two years and expires on the anniversary of initial titling. Vehicles that change ownership receive a shortened registration, valid only until the next anniversary of initial titling.

The test stations are located such that approximately 85 percent of all motorists are within five miles of a test facility and 95 percent are within 12 miles of a facility. Monthly average waiting times range between 5 minutes and 12 minutes varying with station location and time of month. Regular testing hours are posted at all stations. The public is notified of station closure in the case of holidays by posting signs at stations two weeks in advance.

The Oregon two speed idle test procedure offers a second chance idle test for all vehicles. Certain Ford Motor Company and Honda vehicles are allowed a second test if the first is failed.

#### 5.4.6 Vehicle Coverage

Vehicle tests must be performed on all the following types of vehicles:

Passenger cars (gasoline, diesel, and alternative

fuels except electric)  
Light duty trucks (gasoline, diesel, and  
alternative fuels except electric)  
Medium and heavy duty trucks (all gasoline, diesels  
up to 8,500 GVWR, all alternative fuels except  
electric)

The total estimated number of vehicles licensed for road use in the I/M areas in Oregon is 839,000 vehicles. Approximately 45,000 of these vehicles appear to avoid the I/M test by improperly registering outside the test area.

The following types of vehicles, with estimated numbers in parenthesis, are exempt from the testing requirement:

All vehicles model year 1973 and older (26,800)  
Electric Vehicles (N/A)  
Farm Vehicles (4,000)  
Fixed load vehicles (1,200)  
Apportioned plate vehicle (N/A)  
Motorcycles (16,000)  
Snowmobiles (3,200)  
All terrain vehicles (7,400)

DEQ will contact rental car agencies and private and public fleets that operate vehicles in the I/M areas. DEQ will obtain a list of vehicle operated in the I/M areas and will update this list on an annual basis. DEQ is exploring strategies to identify vehicles operated in, but not registered in, the I/M area including: comparison of owners drivers license address with vehicle registration address, periodic parking lot surveys within I/M areas to determine address of vehicle registration and compare this address with telephone directory address for addressee's name, look-up of vehicle registration addresses found to be within the I/M area but which do not have a emission test certificate on file (indicating a defect in the registration address review process).

Private fleets and local government fleets are allowed to test their own vehicles. Test records are tracked by the DEQ. DEQ employees visit fleet operations on a periodic basis to insure proper test procedures are used and testing equipment is properly calibrated. Fleet licenses can be removed if fleet operation do not meet standards.

Alternatively, fleets can be tested in the DEQ operated centralized testing facilities.

Federal government fleets are required by EPA to meet the same requirements as other fleets. In addition,

employees of federal facilities with employee parking are required by EPA to comply with the Oregon inspection program requirements. EPA is requiring federal employees not living in the I/M areas to provide a certificate of compliance from any Oregon I/M program for the installations located in the I/M areas. The Oregon I/M program will work with EPA and the federal fleets to ensure compliance with these requirements. DEQ will develop procedures for such testing and submit them to EPA prior to July 1, 1994.

DEQ will develop procedures for testing vehicles registered in an Oregon I/M area but primarily driven in an I/M area of another state. These procedures will be submitted to EPA prior to July 1, 1994.

A table showing the number of vehicles in each weight class in each model year in 1992 is contained in Appendix F.

#### 5.4.7 Test Procedures and Standards

The authority to establish test procedures and standards is contained in Oregon statutes ORS 468A.360 through 468A.460 in Section 2.2.11 of the Oregon SIP. The test procedures and test standards are specified in the regulation in Section 2.2.7 of the Oregon SIP.

In the Portland area all 1975 model and newer vehicles are subject to a two speed idle test as outlined in the test procedures. For the Medford area all 20 year old vehicles must be tested. Vehicles 1981 and newer are required to pass both an idle and 2500 rpm emissions standards for carbon monoxide and hydrocarbon. Subject vehicles with model years older than 1981 are not judged at the 2500 rpm test point. All tested vehicle are given a second chance idle test.

Vehicles shall be rejected for unsafe conditions, including overheating, fluid leaks, or other conditions determined to be unsafe to the inspection program operations.

DEQ is currently developing detailed testing procedures as a part of computerized testing equipment purchase. These procedures will be submitted to EPA prior to July 1, 1994.

#### 5.4.8 Test Equipment

All tests will be conducted with garage style idle emissions measuring equipment with computer timed measurements, automatic calibration and computerized test data storage. Equipment must meet California BAR 90 accuracy standards. Vehicles failing an initial tailpipe emissions test for any pollutant or pollutants must pass a retest for all pollutants in order to receive a certificate of compliance.

All 1975 and newer vehicles are examined to insure original factory pollution control equipment is in place. Vehicles 1975-1980 are required to maintain fuel restrictors and catalytic converters only. Vehicles newer than 1980 are required to maintain all factory installed pollution control equipment.

Test equipment will have access lock-outs to insure inspectors do not alter test parameters. VIN codes are intended to be read with a bar code reader where possible. Other procedures will be streamlined as much as possible within the guidelines of the program regulations.

The test process is completely computer controlled. The process begins with vehicle identification data entry, including full VIN and license number. DEQ plans to establish a I/M vehicle data base with full vehicle identification and test history accessed by entry of vehicle license plate. The inspector will verify vehicle identity with license plate and VIN. The inspector will then initiate the test procedure with the customer operating the vehicle. The test will proceed as programmed by the computer. After vehicle readings are taken, the computer will establish pass/fail and print out emission report. The DEQ is currently developing the detailed equipment specification and will submit them to EPA prior to July 1, 1994.

#### 5.4.9 Quality Control

The Department will establish the required quality control, record keeping and security procedures for testing program after new computerized equipment has been purchased. Authorization and funding for computerized equipment was granted by the 1993 Oregon Legislature in July 1993. The Department has initiated the purchasing of new equipment and anticipates it will be on line before July 1, 1994.

The Department will develop the specification for quality control and record keeping procedures and submit them to

EPA prior to July 1, 1994.

#### 5.4.10 Waivers and Compliance Via Diagnostic Inspection

The Oregon I/M program does not allow vehicles to by-pass the test with use of a waiver. All vehicles must be repaired and meet testing standards before a certificate is issued and registration can be accomplished.

The test report will alert motorists that failed the vehicle test that they should pursue warranty repairs if the vehicle meets the age and mileage criteria.

#### 5.4.11 Motorist Compliance Enforcement

The legal authority in Appendix E includes the authority necessary to develop and implement the enforcement element of the I/M program. A penalty schedule for violation of the regulation is included.

The motorist compliance enforcement program is to be implemented, in part, by the Oregon Drivers and Motor Vehicle Services Branch (DMV), which will take the lead in ensuring that owners of all subject vehicles are denied registration unless they provide valid proof of having received a certificate indicating they passed an emissions test in Oregon. State and local police agencies have the authority to cite motorists with expired registration tags. Vehicles found to be in non-compliance from parking lot surveys of the I/M areas will be cited when evidence is conclusive. The data from such surveys shall also be used as a supplement to the annual program evaluation.

The following vehicle types are exempt from the I/M program:

- All vehicle model years 1974 and older (in Portland)
- All vehicle model years older than 20 years (in Medford)
- Electric vehicles
- Farm Vehicles
- Fixed load vehicles
- Apportioned plate vehicles
- Motorcycles
- Snowmobiles
- All terrain vehicles (not licensed for street use)

Studies were conducted of vehicles parked in I/M areas in

1983 and 1987. This data was reviewed with DMV registration records and phone book address look-up and tracing of vehicles that initially failed the DEQ test and did not return for retest, but were found to be registered. Based on these studies it is estimated that the current compliance rate is between 90-95 percent. Studies are shown in Appendix G. It is estimated that essentially all of the non-compliance is due to test avoidance either by people who knowingly register inappropriately outside the inspection area or those who unknowingly register at the correct address inside the test area but indicate to DMV the address is outside the I/M area.

Oregon commits to a level of motorist enforcement necessary to ensure a compliance rate of no less than 95% among subject vehicles in the Portland I/M program and no less than 98% in the Medford I/M program. If compliance rate is not achieved, Oregon commits to work with DMV to establish a specific strategies to insure compliance is achieved. These strategies may require statute and rule changes.

A detailed description of motorist compliance enforcement mechanisms is currently being developed. It will be submitted to EPA prior to July 1, 1994. It will include a plan for testing fleet vehicles operated in, but registered outside the I/M areas; parking patrol enforcement against expired registration; minimum penalties for expired registration and falsifying registration information; require proof when vehicle moves from non-exempt to exempt status; a means of tracking registration time extensions; a means of encouraging registration transfer when a vehicle moves from outside to inside an I/M area; tracking vehicles registered without an I/M test when outside Oregon; verification of exempted vehicles.

5.4.12 Motorist Compliance Enforcement Program Oversight

The Department will develop a compliance program including a procedures manual for insuring motorist compliance with the I/M program. This program will be developed and submitted to EPA prior to July 1, 1994.

5.4.13 Quality Assurance

The Department will develop a quality assurance program and submit it to EPA before July 1, 1994. This program shall have a procedures manual to be used by program



auditors for conducting overt and covert audits. In this program auditors will be required to be thoroughly trained in I/M rules, evidence gathering, quality assurance practices and audit procedures.

#### 5.4.14 Enforcement Against Inspectors

Oregon Revised Statute 815.320 "Unlawful certification of compliance with pollution control requirements; penalty" describes that the unlawful certification of compliance with pollution control requirements is a Class A misdemeanor. This statute would apply when an Inspector is found to have intentionally improperly passed a vehicle that would not otherwise have been issued a Certificate of Compliance. The maximum penalty for a Class A misdemeanor is a \$2,500.00 fine and/or a 1 year jail sentence. Additionally, Article 12 of the current collective bargaining agreement between the Department and American Federation of State, County and Municipal Employees (AFSCME) Local 3336 details the process for disciplining and discharging State Employed Vehicle Emission Inspectors.

Oregon Administrative Rule 340-24-340 provides the Inspector's license may be suspended, revoked or removed if the Inspector fails to follow proper test procedures. This would include removal from testing duties for up to 6 months. However, Article 52 of the DEQ/AFSCME agreement requires that an State Employed Vehicle Emission Inspector shall be given at least fifteen (15) calendar days notice before any permanent change of an Inspector from one duty station to another. Where both parties agree, the required notice may be waived.

#### 5.4.15 Data Collection

Oregon commits to collect the data elements listed in EPA regulations 40 CFR 51.365. The test equipment will be capable of tying specific test results to a specific vehicle, test site, test lane and inspector. The details of this record keeping will be submitted to EPA prior to July 1, 1994.

Oregon will summarize and report to EPA the results of quality control checks performed on testing equipment, the concentration values of the calibration gases used and the time of the quality control check.

#### 5.4.16 Data Analysis and Reporting

Beginning July 1, 1996 and annually thereafter the Department shall report summary data based upon program activities taking place from January through December of the previous year. This report will provide statistics for the testing program, the quality control program, the quality assurance program, and the enforcement program. At a minimum, Oregon commits to address all of the data elements listed in 51.366 of the federal EPA's November 5, 1992 I/M rule.

Beginning with July 1, 1996 and biennially thereafter the DEQ shall report on all changes made in the program design, funding, personnel levels, procedures, regulations and legal authority, and shall supply a detailed discussion of the impact of such changes upon the program. This report shall also detail and discuss any weaknesses or problems discovered in the program over the previous two-year period, as well as the steps that were taken to address those problems, the result of those corrective actions, and any future efforts planned.

#### 5.4.17 Inspector Training and Licensing or Certification

Section 2.2.7 of the SIP contains rules requiring vehicle inspector to be formally trained and licensed to conduct inspection. Refresher training and relicensing is required every two years thereafter. Training will include all the elements required by 51.367(a) of the EPA I/M rule. Inspector candidates must pass a written test with at least 80 percent correct responses and a hands-on test to be certified. Oregon must resolve certain union issues before all aspects of training and licensing can be assured. Oregon will resolve these issues and submit the resolution to EPA prior to July 1, 1994

The Department will be responsible for training and testing all inspectors.

#### 5.4.18 Public Information and Consumer Protection

DEQ commits to an ongoing public information and consumer protection program. DEQ dispenses warranty information with each failed test report. The DEQ operates a referee facility capable of conducting I/M tests. DEQ accepts smokey vehicle reports from the general public and sends a letter to the subject vehicle owner to resolve the problem. This program has been effective in correcting the problems of some smoking vehicles.

5.4.19 Improving Repair Effectiveness

DEQ's experience with the automotive service industry in Portland and Medford and the record of effectiveness of mechanics in repairing vehicles to pass DEQ's current basic I/M test, demonstrates that mechanics in the Portland and Medford areas are adequately trained to meet basic program requirements.

DEQ currently operates a hot line in which mechanics or vehicle owners can get repair or program information. They can also bring the subject vehicle to Oregon's Technical Center to be reviewed by DEQ personnel. These personnel are not trained mechanics. So this may not meet EPA "hot line" requirements. DEQ will resolve this issue and submit the resolution to EPA prior to July 1, 1994.

5.4.20 Compliance with Recall Notices

DEQ does not intend to require vehicle owners to comply with recall notices in order to complete vehicle registration.

5.4.21 On-road Testing

DEQ does not intend to perform on-road testing of motorist vehicles as an enhancement to DEQ's basic program.

9/17/93  
JC:jc  
SIP12

ZIPCODES THAT ARE TOTALLY OR PARTIALLY WITHIN I/M PROGRAM BOUNDARY  
PORTLAND AREA

COUNTY	ZIPCODE	IN OR BOTH
---	-----	-----
CL	97009	BOTH
CL	97015	BOTH
CL	97027	IN
CL	97034	IN
CL	97035	IN
CL	97036	IN
CL	97045	BOTH
CL	97062	BOTH
CL	97068	BOTH
CL	97070	BOTH
CL	97080	BOTH
CL	97140	BOTH
CL	97202	IN
CL	97206	IN
CL	97219	IN
CL	97222	IN
CL	97236	IN
CL	97266	IN
CL	97267	IN
CL	97268	IN
MU	97009	BOTH
MU	97024	IN
MU	97030	IN
MU	97034	IN
MU	97035	IN
MU	97060	BOTH
MU	97080	BOTH
MU	97124	BOTH
MU	97201	IN
MU	97202	IN
MU	97203	IN
MU	97204	IN
MU	97205	IN
MU	97206	IN
MU	97209	IN
MU	97210	IN
MU	97211	IN
MU	97212	IN
MU	97213	IN
MU	97214	IN
MU	97215	IN
MU	97216	IN
MU	97217	IN
MU	97218	IN
MU	97219	IN

CL = CLACKAMAS COUNTY MU = MULTNOMAH COUNTY WA = WASHINGTON COUNTY

ZIPCODES THAT ARE TOTALLY OR PARTIALLY WITHIN I/M PROGRAM BOUNDARY  
PORTLAND AREA

COUNTY	ZIPCODE	IN OR BOTH
--	-----	-----
MU	97220	IN
MU	97221	IN
MU	97222	IN
MU	97227	IN
MU	97229	BOTH
MU	97230	IN
MU	97231	BOTH
MU	97232	IN
MU	97233	IN
MU	97236	IN
MU	97266	IN
WA	97005	IN
WA	97006	IN
WA	97007	BOTH
WA	97035	IN
WA	97062	BOTH
WA	97070	BOTH
WA	97113	BOTH
WA	97116	BOTH
WA	97123	BOTH
WA	97124	BOTH
WA	97140	BOTH
WA	97223	IN
WA	97224	BOTH
WA	97225	IN
WA	97229	BOTH
WA	97231	BOTH

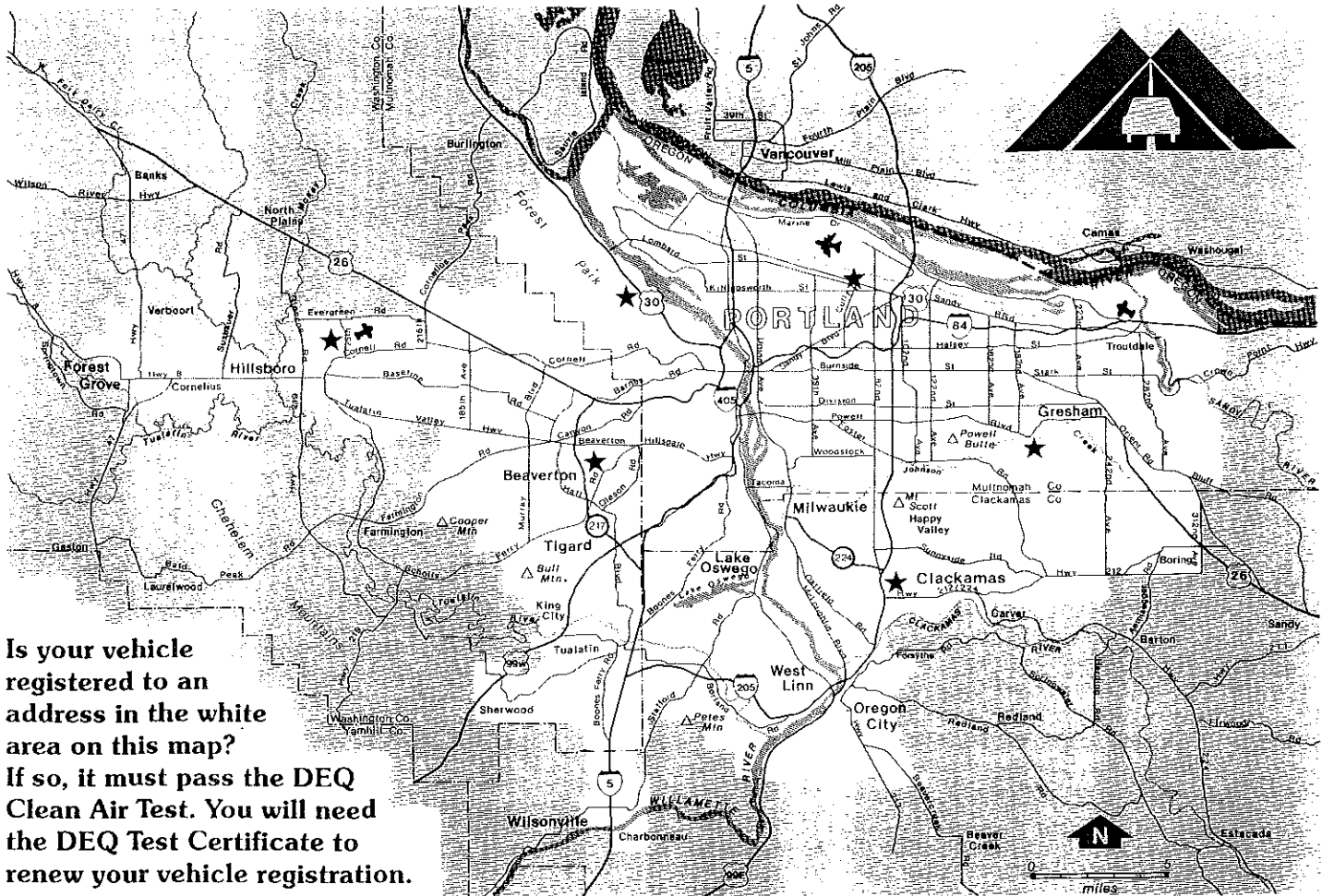
CL = CLACKAMAS COUNTY    MU = MULTNOMAH COUNTY    WA = WASHINGTON COUNTY

ZIPCODES THAT ARE TOTALLY OR PARTIALLY WITHIN I/M PROGRAM BOUNDARY  
MEDFORD AREA

COUNTY	ZIPCODE	IN OR BOTH
--	-----	----
JA	97520	BOTH
JA	97502	BOTH
JA	97524	BOTH
JA	97525	BOTH
JA	97530	BOTH
JA	97501	IN
JA	97504	IN
JA	97535	BOTH
JA	97540	BOTH
JA	97503	BOTH

JA = JACKSON COUNTY

# PORTLAND VEHICLE INSPECTION PROGRAM BOUNDARIES



Is your vehicle registered to an address in the white area on this map? If so, it must pass the DEQ Clean Air Test. You will need the DEQ Test Certificate to renew your vehicle registration.

## DEQ Test Center Locations

### Test Center Hours

Open from 10 a.m. to 6 p.m.  
Tuesday through Saturday

Closed on Sunday and Monday

**PORTLAND:** 5885 NW St. Helens Rd.  
(Highway 30)

**HILLSBORO:** 1065 NE 25th Ave.  
(off NW Cornell Rd. near Hillsboro Airport)

**BEAVERTON:** 11170 SW 5th Street  
(just off Highway 217)

**PORTLAND:** 6737 NE Portland Hwy.  
(NE Lombard)

**GRESHAM:** 1100 SW Highland Drive  
(SE 182nd Ave. & Powell Blvd.)

**CLACKAMAS:** 15180 SE 82nd Drive  
(East of I-205, south of Clackamas Town Ctr.)

### What vehicles must be tested?

- Cars, trucks, vans, motor homes and buses powered by gasoline or alternative fuels such as propane.
- Diesel-powered vehicles with manufacturer gross vehicle weight rating of 8,500 pounds or less.

The program applies only to vehicles 20 model-years old or newer. Use the model year on the registration to figure the age of your vehicle. For example, starting January 1, 1992, vehicles registered as 1971 models or older don't have to be tested.

### What vehicles are exempt?

- Heavy-duty diesel-powered vehicles (manufacturer gross vehicle weight rating of more than 8,500 pounds).
- Vehicles legally registered outside the DEQ program boundaries.

If your vehicle is exempt, fill out the Declaration of Exemption form on the other side and return the form to the Motor Vehicles Division with your registration renewal.

### When should my vehicle be tested?

The DEQ Test Certificate is good for 3 months. Take your vehicle to a DEQ test center **within 3 months** of your registration expiration date.

### What is the test procedure?

The test takes about 5 minutes. Vehicles are monitored for carbon monoxide, hydrocarbons, smoke and excessive noise. Pollution control equipment is checked on 1975 and newer vehicles.

When your vehicle passes, you can get the DEQ Test Certificate. The certificate costs \$10. It is required to renew your registration. There is no charge if your vehicle doesn't pass. However, it must be repaired or adjusted, then re-tested.

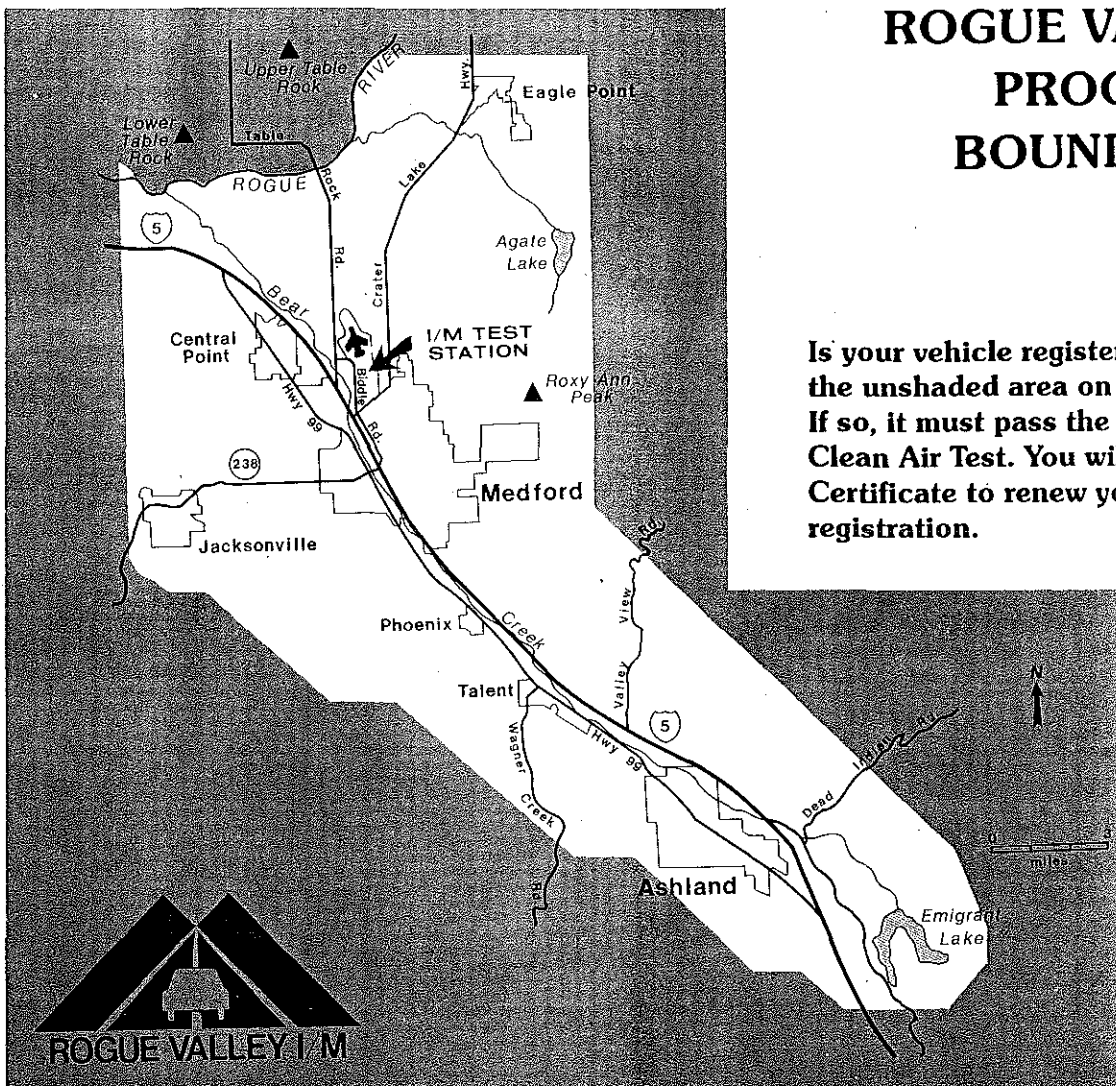
### What if my vehicle doesn't pass?

It may need only a minor adjustment to pass the re-test. Performance and fuel economy generally improve with these adjustments. In some cases, more extensive repair may be needed. Adjustments and repairs may be done by anyone, including yourself, a friend, a garage mechanic or an auto dealership.

Up-to-date recorded information on the DEQ Vehicle Inspection Program is available 24 hours a day at 229-6234 or 229-6235.

For more specific information, call 229-6238, Monday through Friday, 8 a.m. to 5 p.m.

# ROGUE VALLEY I/M PROGRAM BOUNDARIES



Is your vehicle registered to an address in the unshaded area on this map? If so, it must pass the Rogue Valley I/M Clean Air Test. You will need the I/M Test Certificate to renew your vehicle registration.

Vehicles are inspected at the Rogue Valley I/M Test Center.

We're located south of the Medford-Jackson County Airport at 3030 Biddle Road in Medford.

## What vehicles must be tested?

- Cars, trucks, vans, motor homes and buses powered by gasoline or alternative fuels such as propane.
- Diesel-powered vehicles with manufacturer gross vehicle weight rating of 8,500 pounds or less.

The program applies only to vehicles that are 20 model-years old or newer. Use the model year on the registration to figure the age of your vehicle. For example, starting on

January 1, 1992, vehicles registered as 1971 models don't have to be tested.

## What vehicles are exempt?

- Heavy-duty diesel-powered vehicles (manufacturers gross vehicle weight rating of more than 8,500 pounds).
- Vehicles legally registered outside the Rogue Valley I/M Program boundaries.

If your vehicle is exempt, fill out the Declaration of Exemption form on the other side and return the form to the Motor Vehicles Division with your registration renewal.

## When should my vehicle be tested?

The I/M Test Certificate is good for 3 months. Bring your vehicle in for testing **within 3 months** of the date your registration expires.

## What is the test procedure?

The test takes about 5 minutes. Vehicles are monitored for carbon monoxide, hydrocarbons and smoke. Pollution control equipment is checked on 1975 and newer vehicles.

If your vehicle passes, you can get the I/M Test Certificate. The certificate costs \$10. It is re-

quired to renew your registration. There is no charge if your vehicle doesn't pass. However, it must be repaired or adjusted, then re-tested.

## What if my vehicle doesn't pass?

It may need only a minor adjustment to pass the re-test. Performance and fuel economy generally improve with these adjustments. In some cases, more extensive repair may be needed. Adjustments and repairs may be done by anyone, including yourself, a friend, a garage mechanic or an auto dealership.

## TEST CENTER HOURS

**TUESDAY through FRIDAY:**

**OPEN at 10 a.m.**

**CLOSE at 6 p.m.**

**SATURDAY:**

**OPEN at 9 a.m.**

**CLOSE at 5 p.m.**

**CLOSED**

**SUNDAY and MONDAY**

**Up-to-date recorded information on the Rogue Valley I/M Program is available 24 hours a day at 776-6145.**

**For more specific information, call 776-6140, Monday through Friday, 8 a.m. to 5 p.m.**



1  
1996 Basic I/M for CO with Mfr temp. of 35.1 degrees

1  
1  
1  
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1  
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1  
5  
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1

.032	.061	.058	.061	.068	.066	.064	.046	.037	.042	LDGV
.041	.053	.054	.048	.034	.023	.025	.028	.026	.017	
.016	.016	.013	.012	.059						
.055	.099	.098	.092	.097	.073	.062	.033	.027	.029	LDGT1
.031	.047	.044	.037	.028	.017	.023	.023	.019	.013	
.010	.009	.008	.006	.020						
.038	.072	.071	.059	.064	.070	.067	.056	.046	.039	LDGT2
.009	.069	.060	.051	.039	.025	.023	.025	.018	.014	
.010	.011	.010	.007	.027						
.036	.062	.063	.056	.058	.063	.062	.049	.042	.035	HDGV
.031	.065	.056	.050	.039	.032	.029	.033	.024	.018	
.016	.016	.011	.011	.043						
.032	.061	.058	.061	.068	.066	.064	.046	.037	.042	LDDV
.041	.053	.054	.048	.034	.023	.025	.028	.026	.017	
.016	.016	.013	.012	.059						
.055	.099	.098	.092	.097	.073	.062	.033	.027	.029	LDDT
.031	.047	.044	.037	.028	.017	.023	.023	.019	.013	
.010	.009	.008	.006	.020						
.057	.107	.103	.075	.080	.097	.089	.052	.046	.035	HDDV
.042	.047	.034	.028	.012	.014	.017	.019	.012	.009	
.006	.005	.005	.002	.007						
.144	.168	.135	.109	.088	.070	.056	.045	.036	.029	MC
.023	.097	.000	.000	.000	.000	.000	.000	.000	.000	
.000	.000	.000	.000	.000						

83 20 68 20 0 0 100 1 1 2221 1111  
BAS mfr96 CO EF 30.0 40. 12.4 12.4 20 2 1  
.001 .999 .027 .027 2  
1 96 19.6 35.1 20.6 27.3 20.6

11996 Basic I/M for CO with Mfr temp. of 35.1 degrees  
 MOBILE5a (26-Mar-93)  
 0I/M program selected:

0 Start year (January 1): 1983  
 Pre-1981 MYR stringency rate: 20%  
 First model year covered: 1968  
 Last model year covered: 2020  
 Waiver rate (pre-1981): 0.%  
 Waiver rate (1981 and newer): 0.%  
 Compliance Rate: 100.%  
 Inspection type: Test Only  
 Inspection frequency: Annual  
 Vehicle types covered: LDGV - Yes  
 LDGT1 - Yes  
 LDGT2 - Yes  
 HDGV - No  
 1981 & later MYR test type: Idle  
 Cutpoints, HC: 220.000 CO: 1.200 NOx: 999.000

OBAS mfr96 CO EF

Minimum Temp: 30. (F) Maximum Temp: 40. (F)  
 Period 1 RVP: 12.4 Period 2 RVP: 12.4 Period 2 Yr:

2020  
 0VOC HC emission factors include evaporative HC emission factors.

0

0Emission factors are as of Jan. 1st of the indicated calendar year.

0User supplied veh registration distributions.

0Cal. Year: 1996 Region: Low Altitude: 500. Ft.  
 I/M Program: Yes Ambient Temp: 35.1 (F)  
 Anti-tam. Program: No Operating Mode: 20.6 / 27.3 / 20.6  
 Reformulated Gas: No

0 Ether Blend Market Share: 0.001 Alcohol Blend Market Share: 0.999  
 Ether Blend Oxygen Content: 0.027 Alcohol Blend Oxygen Content: 0.027  
 Alcohol Blend RVP Waiver: Yes

0Veh. Type: LDGV LDGT1 LDGT2 LDGT HDGV LDDV LDDT HDDV MC All  
 Veh

+

Veh. Spd.:	19.6	19.6	19.6	19.6	19.6	19.6	19.6	19.6	19.6	
VMT Mix:	0.590	0.198	0.089	0.038	0.004	0.001	0.073	0.007		
0Composite Emission Factors (Gm/Mile)										
Exhst CO:	26.98	25.80	31.95	27.71	52.74	1.84	2.02	11.47	24.72	26.88

1

MOBILE5a (26-Mar-93)

0

-M 89 Error:

+ 0 out of bounds for flag PROMPT (1 to 4)

1  
 1996 Medford CO EF at 19.6 mph for Comparison w/ Basic I/M

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 .032 .061 .058 .061 .068 .066 .064 .046 .037 .042 LDGV  
 .041 .053 .054 .048 .034 .023 .025 .028 .026 .017  
 .016 .016 .013 .012 .059  
 .055 .099 .098 .092 .097 .073 .062 .033 .027 .029 LDGT1  
 .031 .047 .044 .037 .028 .017 .023 .023 .019 .013  
 .010 .009 .008 .006 .020  
 .038 .072 .071 .059 .064 .070 .067 .056 .046 .039 LDGT2  
 .9 .069 .060 .051 .039 .025 .023 .025 .018 .014  
 .010 .011 .010 .007 .027  
 .036 .062 .063 .056 .058 .063 .062 .049 .042 .035 HDGV  
 .031 .065 .056 .050 .039 .032 .029 .033 .024 .018  
 .016 .016 .011 .011 .043  
 .032 .061 .058 .061 .068 .066 .064 .046 .037 .042 LDDV  
 .041 .053 .054 .048 .034 .023 .025 .028 .026 .017  
 .016 .016 .013 .012 .059  
 .055 .099 .098 .092 .097 .073 .062 .033 .027 .029 LDDT  
 .031 .047 .044 .037 .028 .017 .023 .023 .019 .013  
 .010 .009 .008 .006 .020  
 .057 .107 .103 .075 .080 .097 .089 .052 .046 .035 HDDV  
 .042 .047 .034 .028 .012 .014 .017 .019 .012 .009  
 .006 .005 .005 .002 .007  
 .144 .168 .135 .109 .088 .070 .056 .045 .036 .029 MC  
 .023 .097 .000 .000 .000 .000 .000 .000 .000 .000  
 .000 .000 .000 .000 .000  
 86 47 76 20 0 0 98 1 2 2222 2111  
 86 76 20 2222 12 98.0 22212222  
 MFR 1996 CO EF 30.0 40. 12.4 12.4 20 2 1  
 .001 .999 .027 .027 2  
 1 96 19.6 35.1 20.6 27.3 20.6

1996 Medford CO EF at 19.6 mph for Comparison w/ Basic I/M  
 MOBILE5a (26-Mar-93)  
 OI/M program selected:

0 Start year (January 1): 1986  
 Pre-1981 MYR stringency rate: 47%  
 First model year covered: 1976  
 Last model year covered: 2020  
 Waiver rate (pre-1981): 0.%  
 Waiver rate (1981 and newer): 0.%  
 Compliance Rate: 98.%  
 Inspection type: Test Only  
 Inspection frequency: Biennial  
 Vehicle types covered: LDGV - Yes  
 LDGT1 - Yes  
 LDGT2 - Yes  
 HDGV - Yes  
 1981 & later MYR test type: 2500 rpm / Idle  
 Cutpoints, HC: 220.000 CO: 1.200 NOx: 999.000

0Functional Check Program Description:

Check Start (Jan1)	Model Yrs Covered	Vehicle Classes	LDGV	LDGT1	LDGT2	HDGV	Inspection Type	Inspection Freq	Comp Rate
ATP 1986	1976-2020	Yes	Yes	Yes	Yes	Yes	Test Only	Biennial	98.0%
0Air pump system disablements:		Yes		Yes		Catalyst removals:			
3 Fuel inlet restrictor disablements:		Yes				Tailpipe lead deposit test:			No
EGR disablement:		Yes				Evaporative system disablements:			
Yes PCV system disablements:		Yes				Missing gas caps:			
Yes									

0MFR 1996 CO EF

Minimum Temp: 30. (F) Maximum Temp: 40. (F)  
 Period 1 RVP: 12.4 Period 2 RVP: 12.4 Period 2 Yr:

2020  
 0VOC HC emission factors include evaporative HC emission factors.

0Emission factors are as of Jan. 1st of the indicated calendar year.  
 0User supplied veh registration distributions.  
 0Cal. Year: 1996 Region: Low Altitude: 500. Ft.  
 I/M Program: Yes Ambient Temp: 35.1 (F)  
 Anti-tam. Program: Yes Operating Mode: 20.6 / 27.3 / 20.6  
 Reformulated Gas: No  
 0 Ether Blend Market Share: 0.001 Alcohol Blend Market Share: 0.999  
 Ether Blend Oxygen Content: 0.027 Alcohol Blend Oxygen Content: 0.027  
 Alcohol Blend RVP Waiver: Yes  
 0Veh. Type: LDGV LDGT1 LDGT2 LDGT HDGV LDDV LDDT HDDV MC All  
 Veh  
 +  
 Veh. Spd.: 19.6 19.6 19.6 19.6 19.6 19.6 19.6 19.6  
 VMT Mix: 0.590 0.198 0.089 0.038 0.004 0.001 0.073 0.007  
 0Composite Emission Factors (Gm/Mile)  
 Exhst CO: 27.38 24.45 31.64 26.68 48.04 1.84 2.02 11.47 24.72 26.64

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 1996 Medford CO EF without I/M at 19.6 mph

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.032	.061	.058	.061	.068	.066	.064	.046	.037	.042	LDGV
.041	.053	.054	.048	.034	.023	.025	.028	.026	.017	
.016	.016	.013	.012	.059						
.055	.099	.098	.092	.097	.073	.062	.033	.027	.029	LDGT1
.031	.047	.044	.037	.028	.017	.023	.023	.019	.013	
.010	.009	.008	.006	.020						
.038	.072	.071	.059	.064	.070	.067	.056	.046	.039	LDGT2
.009	.069	.060	.051	.039	.025	.023	.025	.018	.014	
.010	.011	.010	.007	.027						
.036	.062	.063	.056	.058	.063	.062	.049	.042	.035	HDGV
.031	.065	.056	.050	.039	.032	.029	.033	.024	.018	
.016	.016	.011	.011	.043						
.032	.061	.058	.061	.068	.066	.064	.046	.037	.042	LDDV
.041	.053	.054	.048	.034	.023	.025	.028	.026	.017	
.016	.016	.013	.012	.059						
.055	.099	.098	.092	.097	.073	.062	.033	.027	.029	LDDT
.031	.047	.044	.037	.028	.017	.023	.023	.019	.013	
.010	.009	.008	.006	.020						
.057	.107	.103	.075	.080	.097	.089	.052	.046	.035	HDDV
.042	.047	.034	.028	.012	.014	.017	.019	.012	.009	
.006	.005	.005	.002	.007						
.144	.168	.135	.109	.088	.070	.056	.045	.036	.029	MC
.023	.097	.000	.000	.000	.000	.000	.000	.000	.000	
.000	.000	.000	.000	.000						

MFR 1996 CO EF 30.0 40. 12.4 12.4 20 2 1  
 .001 .999 .027 .027 2  
 1 96 19.6 35.1 20.6 27.3 20.6

1996 Medford CO EF without I/M at 19.6 mph

MOBILE5a (26-Mar-93)

OMFR 1996 CO EF

Minimum Temp: 30. (F) Maximum Temp: 40. (F)  
 Period 1 RVP: 12.4 Period 2 RVP: 12.4 Period 2 Yr:

2020  
 OVOC HC emission factors include evaporative HC emission factors.

0

0Emission factors are as of Jan. 1st of the indicated calendar year.

0User supplied veh registration distributions.

0Cal. Year: 1996 Region: Low Altitude: 500. Ft.  
 I/M Program: No Ambient Temp: 35.1 (F)  
 Anti-tam. Program: No Operating Mode: 20.6 / 27.3 / 20.6  
 Reformulated Gas: No

0 Ether Blend Market Share: 0.001 Alcohol Blend Market Share: 0.999

Ether Blend Oxygen Content: 0.027 Alcohol Blend Oxygen Content: 0.027

Alcohol Blend RVP Waiver: Yes

0Veh. Type: LDGV LDGT1 LDGT2 LDGT HDGV LDDV LDDT HDDV MC All  
 Veh

+

Veh. Spd.:	19.6	19.6	19.6	19.6	19.6	19.6	19.6	19.6	19.6
VMT Mix:	0.590	0.198	0.089	0.038	0.004	0.001	0.073	0.007	

0Composite Emission Factors (Gm/Mile)

hst CO:	35.03	31.59	42.71	35.03	52.74	1.84	2.02	11.47	24.72	33.73
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MOBILE5a (26-Mar-93)

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-M 89 Error:

+ 0 out of bounds for flag PROMPT (1 to 4)

1996 Portland CO EF for Basic I/M, FTP Speed

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1											
.050	.088	.073	.069	.071	.068	.063	.046	.038	.044		LDGV
.044	.049	.047	.039	.030	.019	.022	.021	.019	.013		
.013	.013	.012	.010	.039							
.055	.099	.098	.092	.097	.073	.062	.033	.027	.029		LDGT1
.031	.047	.044	.037	.028	.017	.023	.023	.019	.013		
.010	.009	.008	.006	.020							
.038	.072	.071	.059	.064	.070	.067	.056	.046	.039		LDGT2
.019	.069	.060	.051	.039	.025	.023	.025	.018	.014		
.010	.011	.010	.007	.027							
.036	.062	.063	.056	.058	.063	.062	.049	.042	.035		HDGV
.031	.065	.056	.050	.039	.032	.029	.033	.024	.018		
.016	.016	.011	.011	.043							
.050	.088	.073	.069	.071	.068	.063	.046	.038	.044		LDDV
.044	.049	.047	.039	.030	.019	.022	.021	.019	.013		
.013	.013	.012	.010	.039							
.055	.099	.098	.092	.097	.073	.062	.033	.027	.029		LDDT
.031	.047	.044	.037	.028	.017	.023	.023	.019	.013		
.010	.009	.008	.006	.020							
.057	.107	.103	.075	.080	.097	.089	.052	.046	.035		HDDV
.042	.047	.034	.028	.012	.014	.017	.019	.012	.009		
.006	.005	.005	.002	.007							
.144	.168	.135	.109	.088	.070	.056	.045	.036	.029		MC
.023	.097	.000	.000	.000	.000	.000	.000	.000	.000		
.000	.000	.000	.000	.000							

83 20 68 20 0 0 100 1 1 2221 1111  
 Basic I/M CO EF 40.0 60. 13.6 13.6 20 2 1  
 .001 .999 .027 .027 2  
 1 96 19.6 44.0 20.6 27.3 20.6

1996 Portland CO EF for Basic I/M, FTP Speed  
 MOBILE5a (26-Mar-93)  
 OI/M program selected:

0 Start year (January 1): 1983  
 Pre-1981 MYR stringency rate: 20%  
 First model year covered: 1968  
 Last model year covered: 2020  
 Waiver rate (pre-1981): 0.%  
 Waiver rate (1981 and newer): 0.%  
 Compliance Rate: 100.%  
 Inspection type: Test Only  
 Inspection frequency: Annual  
 Vehicle types covered: LDGV - Yes  
 LDGT1 - Yes  
 LDGT2 - Yes  
 HDGV - No  
 1981 & later MYR test type: Idle  
 Cutpoints, HC: 220.000 CO: 1.200 NOx: 999.000

0Basic I/M CO EF  
 Minimum Temp: 40. (F) Maximum Temp: 60. (F)  
 Period 1 RVP: 13.6 Period 2 RVP: 13.6 Period 2 Yr:

2020  
 OVOC HC emission factors include evaporative HC emission factors.

0

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0Emission factors are as of Jan. 1st of the indicated calendar year.

0User supplied veh registration distributions.

0Cal. Year: 1996 Region: Low Altitude: 500. Ft.  
 I/M Program: Yes Ambient Temp: 44.0 (F)  
 Anti-tam. Program: No Operating Mode: 20.6 / 27.3 / 20.6  
 Reformulated Gas: No

0 Ether Blend Market Share: 0.001 Alcohol Blend Market Share: 0.999  
 Ether Blend Oxygen Content: 0.027 Alcohol Blend Oxygen Content: 0.027  
 Alcohol Blend RVP Waiver: Yes

0Veh. Type: LDGV LDGT1 LDGT2 LDGT HDGV LDDV LDDT HDDV MC All  
 Veh

+  
 Veh. Spd.: 19.6 19.6 19.6 19.6 19.6 19.6 19.6 19.6  
 VMT Mix: 0.605 0.191 0.086 0.036 0.003 0.001 0.071 0.007  
 0Composite Emission Factors (Gm/Mile)  
 Exhst CO: 21.64 22.66 28.33 24.41 50.72 1.80 2.02 11.47 22.42 22.66

1  
 MOBILE5a (26-Mar-93)

0  
 -M 89 Error:  
 + 0 out of bounds for flag PROMPT (1 to 4)



1996 Portland CO EF with I/M Stringency of 47%, Compl. of 95%

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.050	.088	.073	.069	.071	.068	.063	.046	.038	.044		LDGV
.044	.049	.047	.039	.030	.019	.022	.021	.019	.013		
.013	.013	.012	.010	.039							
.055	.099	.098	.092	.097	.073	.062	.033	.027	.029		LDGT1
.031	.047	.044	.037	.028	.017	.023	.023	.019	.013		
.010	.009	.008	.006	.020							
.038	.072	.071	.059	.064	.070	.067	.056	.046	.039		LDGT2
.029	.069	.060	.051	.039	.025	.023	.025	.018	.014		
.010	.011	.010	.007	.027							
.036	.062	.063	.056	.058	.063	.062	.049	.042	.035		HDGV
.031	.065	.056	.050	.039	.032	.029	.033	.024	.018		
.016	.016	.011	.011	.043							
.050	.088	.073	.069	.071	.068	.063	.046	.038	.044		LDDV
.044	.049	.047	.039	.030	.019	.022	.021	.019	.013		
.013	.013	.012	.010	.039							
.055	.099	.098	.092	.097	.073	.062	.033	.027	.029		LDDT
.031	.047	.044	.037	.028	.017	.023	.023	.019	.013		
.010	.009	.008	.006	.020							
.057	.107	.103	.075	.080	.097	.089	.052	.046	.035		HDDV
.042	.047	.034	.028	.012	.014	.017	.019	.012	.009		
.006	.005	.005	.002	.007							
.144	.168	.135	.109	.088	.070	.056	.045	.036	.029		MC
.023	.097	.000	.000	.000	.000	.000	.000	.000	.000		
.000	.000	.000	.000	.000							
75	47	75	20	0	0	95	1	2	2222	2111	
77	75	20	2222	12	95.0	22212222					
PTLD	1996	CO	EF	40.0	60.	13.6	13.6	20	2	1	
.001	.999	.027	.027	2							
1	96	19.6	44.0	20.6	27.3	20.6					

1996 Portland CO EF with I/M Stringency of 47%, Compl. of 95%  
 MOBILE5a (26-Mar-93)  
 OI/M program selected:

0 Start year (January 1): 1975  
 Pre-1981 MYR stringency rate: 47%  
 First model year covered: 1975  
 Last model year covered: 2020  
 Waiver rate (pre-1981): 0.%  
 Waiver rate (1981 and newer): 0.%  
 Compliance Rate: 95.%  
 Inspection type: Test Only  
 Inspection frequency: Biennial  
 Vehicle types covered: LDGV - Yes  
 LDGT1 - Yes  
 LDGT2 - Yes  
 HDGV - Yes  
 1981 & later MYR test type: 2500 rpm / Idle  
 Cutpoints, HC: 220.000 CO: 1.200 NOx: 999.000

0Functional Check Program Description:

Check	Start (Jan1)	Model Yrs Covered	Vehicle LDGV	Classes LDGT1	Covered LDGT2	HDGV	Inspection Type	Inspection Freq	Comp Rate
ATP	1977	1975-2020	Yes	Yes	Yes	Yes	Test Only	Biennial	95.0%
0Air pump system disablements:				Yes	Catalyst removals:				
Fuel inlet restrictor disablements:			Yes	Tailpipe lead deposit test:					No
EGR disablement:			Yes	Evaporative system disablements:					
PCV system disablements:			Yes	Missing gas caps:					

OPTLD 1996 CO EF  
 Minimum Temp: 40. (F) Maximum Temp: 60. (F)  
 Period 1 RVP: 13.6 Period 2 RVP: 13.6 Period 2 Yr:

2020  
 0VOC HC emission factors include evaporative HC emission factors.

0Emission factors are as of Jan. 1st of the indicated calendar year.

0User supplied veh registration distributions.

0Cal. Year: 1996 Region: Low Altitude: 500. Ft.  
 I/M Program: Yes Ambient Temp: 44.0 (F)  
 Anti-tam. Program: Yes Operating Mode: 20.6 / 27.3 / 20.6  
 Reformulated Gas: No

0 Ether Blend Market Share: 0.001 Alcohol Blend Market Share: 0.999  
 Ether Blend Oxygen Content: 0.027 Alcohol Blend Oxygen Content: 0.027  
 Alcohol Blend RVP Waiver: Yes

0Veh. Type: LDGV LDGT1 LDGT2 LDGT HDGV LDDV LDDT HDDV MC All Veh

Spd.	LDGV	LDGT1	LDGT2	LDGT	HDGV	LDDV	LDDT	HDDV	MC	All Veh
Sh. Spd.:	19.6	19.6	19.6		19.6	19.6	19.6	19.6	19.6	19.6
VMT Mix:	0.605	0.191	0.086		0.036	0.003	0.001	0.071	0.007	

0Composite Emission Factors (Gm/Mile)

Exhst	CO	LDGV	LDGT1	LDGT2	LDGT	HDGV	LDDV	LDDT	HDDV	MC	All Veh
CO:	21.48	21.23	27.85	23.28	46.30	1.80	2.02	11.47	22.42	22.09	

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 1996 Portland No I/M with Oxy Fuel at 2.7%, CO EF

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1											
3											
1											
.050	.088	.073	.069	.071	.068	.063	.046	.038	.044		LDGV
.044	.049	.047	.039	.030	.019	.022	.021	.019	.013		
.013	.013	.012	.010	.039							
.055	.099	.098	.092	.097	.073	.062	.033	.027	.029		LDGT1
.031	.047	.044	.037	.028	.017	.023	.023	.019	.013		
.010	.009	.008	.006	.020							
.038	.072	.071	.059	.064	.070	.067	.056	.046	.039		LDGT2
.009	.069	.060	.051	.039	.025	.023	.025	.018	.014		
.010	.011	.010	.007	.027							
.036	.062	.063	.056	.058	.063	.062	.049	.042	.035		HDGV
.031	.065	.056	.050	.039	.032	.029	.033	.024	.018		
.016	.016	.011	.011	.043							
.050	.088	.073	.069	.071	.068	.063	.046	.038	.044		LDDV
.044	.049	.047	.039	.030	.019	.022	.021	.019	.013		
.013	.013	.012	.010	.039							
.055	.099	.098	.092	.097	.073	.062	.033	.027	.029		LDDT
.031	.047	.044	.037	.028	.017	.023	.023	.019	.013		
.010	.009	.008	.006	.020							
.057	.107	.103	.075	.080	.097	.089	.052	.046	.035		HDDV
.042	.047	.034	.028	.012	.014	.017	.019	.012	.009		
.006	.005	.005	.002	.007							
.144	.168	.135	.109	.088	.070	.056	.045	.036	.029		MC
.023	.097	.000	.000	.000	.000	.000	.000	.000	.000		
.000	.000	.000	.000	.000							
PTLD	1996	CO EF	40.0	60.	13.6	13.6	20	2	1		
.001	.999	.027	.027	2							
1	96	19.6	44.0	20.6	27.3	20.6					

1996 Portland No I/M with Oxy Fuel at 2.7%, CO EF  
MOBILE5a (26-Mar-93)  
OPTLD 1996 CO EF

Minimum Temp: 40. (F) Maximum Temp: 60. (F)  
Period 1 RVP: 13.6 Period 2 RVP: 13.6 Period 2 Yr:

2020  
0VOC HC emission factors include evaporative HC emission factors.  
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0Emission factors are as of Jan. 1st of the indicated calendar year.

0User supplied veh registration distributions.

0Cal. Year: 1996 Region: Low Altitude: 500. Ft.  
I/M Program: No Ambient Temp: 44.0 (F)  
Anti-tam. Program: No Operating Mode: 20.6 / 27.3 / 20.6  
Reformulated Gas: No

0 Ether Blend Market Share: 0.001 Alcohol Blend Market Share: 0.999  
Ether Blend Oxygen Content: 0.027 Alcohol Blend Oxygen Content: 0.027  
Alcohol Blend RVP Waiver: Yes

0Veh. Type: LDGV LDGT1 LDGT2 LDGT HDGV LDDV LDDT HDDV MC All  
Veh

	LDGV	LDGT1	LDGT2	LDGT	HDGV	LDDV	LDDT	HDDV	MC	All
Veh. Spd.:	19.6	19.6	19.6		19.6	19.6	19.6	19.6	19.6	
VMT Mix:	0.605	0.191	0.086		0.036	0.003	0.001	0.071	0.007	
0Composite Emission Factors (Gm/Mile)										
dhst CO:	27.50	27.88	38.11	31.05	50.72	1.80	2.02	11.47	22.42	28.04

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MOBILE5a (26-Mar-93)

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-M 89 Error:  
+ 0 out of bounds for flag PROMPT (1 to 4)

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1997 Basic I/M for VOC, CO, NOX at 7.8 RVP

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.050	.088	.073	.069	.071	.068	.063	.046	.038	.044	LDGV
.044	.049	.047	.039	.030	.019	.022	.021	.019	.013	
.013	.013	.012	.010	.039						
.055	.099	.098	.092	.097	.073	.062	.033	.027	.029	LDGT1
.031	.047	.044	.037	.028	.017	.023	.023	.019	.013	
.010	.009	.008	.006	.020						
.038	.072	.071	.059	.064	.070	.067	.056	.046	.039	LDGT2
.009	.069	.060	.051	.039	.025	.023	.025	.018	.014	
.010	.011	.010	.007	.027						
.036	.062	.063	.056	.058	.063	.062	.049	.042	.035	HDGV
.031	.065	.056	.050	.039	.032	.029	.033	.024	.018	
.016	.016	.011	.011	.043						
.050	.088	.073	.069	.071	.068	.063	.046	.038	.044	LDDV
.044	.049	.047	.039	.030	.019	.022	.021	.019	.013	
.013	.013	.012	.010	.039						
.055	.099	.098	.092	.097	.073	.062	.033	.027	.029	LDDT
.031	.047	.044	.037	.028	.017	.023	.023	.019	.013	
.010	.009	.008	.006	.020						
.057	.107	.103	.075	.080	.097	.089	.052	.046	.035	HDDV
.042	.047	.034	.028	.012	.014	.017	.019	.012	.009	
.006	.005	.005	.002	.007						
.144	.168	.135	.109	.088	.070	.056	.045	.036	.029	MC
.023	.097	.000	.000	.000	.000	.000	.000	.000	.000	
.000	.000	.000	.000	.000						

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Basic I/M HC EF 62.0 98. 7.8 7.8 20 1 1  
1 97 19.6 86. 20.6 27.3 20.6 7

1997 Basic I/M for VOC, CO, NOX at 7.8 RVP  
 MOBILE5a (26-Mar-93)  
 OI/M program selected:

0 Start year (January 1): 1983  
 Pre-1981 MYR stringency rate: 20%  
 First model year covered: 1968  
 Last model year covered: 2020  
 Waiver rate (pre-1981): 0.%  
 Waiver rate (1981 and newer): 0.%  
 Compliance Rate: 100.%  
 Inspection type: Test Only  
 Inspection frequency: Annual  
 Vehicle types covered: LDGV - Yes  
 LDGT1 - Yes  
 LDGT2 - Yes  
 HDGV - No  
 1981 & later MYR test type: Idle  
 Cutpoints, HC: 220.000 CO: 1.200 NOx: 999.000

0Basic I/M HC EF

Minimum Temp: 62. (F) Maximum Temp: 98. (F)  
 Period 1 RVP: 7.8 Period 2 RVP: 7.8 Period 2 Yr:

2020  
 0VOC HC emission factors include evaporative HC emission factors.

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0Emission factors are as of July 1st of the indicated calendar year.

0User supplied veh registration distributions.

0Cal. Year: 1997 Region: Low Altitude: 500. Ft.  
 I/M Program: Yes Ambient Temp: 88.8 / 88.8 / 88.8

F Anti-tam. Program: No Operating Mode: 20.6 / 27.3 / 20.6  
 Reformulated Gas: No

0Veh. Type: LDGV LDGT1 LDGT2 LDGT HDGV LDDV LDDT HDDV MC All  
 Veh

	LDGV	LDGT1	LDGT2	LDGT	HDGV	LDDV	LDDT	HDDV	MC	All
Veh. Spd.:	19.6	19.6	19.6		19.6	19.6	19.6	19.6	19.6	
VMT Mix:	0.600	0.194	0.086		0.036	0.002	0.001	0.073	0.007	

0Composite Emission Factors (Gm/Mile)

	LDGV	LDGT1	LDGT2	LDGT	HDGV	LDDV	LDDT	HDDV	MC	All
VOC HC:	2.50	2.36	3.40	2.68	5.66	0.80	1.03	2.23	6.10	2.67
Exhst CO:	18.20	18.66	25.40	20.73	57.81	1.79	1.94	11.30	25.34	19.83
Exhst NOX:	1.57	1.56	2.18	1.75	4.98	1.62	1.75	10.73	0.77	2.41

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1 MOBILE5a (26-Mar-93)

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 -M 89 Error:  
 + 0 out of bounds for flag PROMPT (1 to 4)

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 1997 Portland HC,CO, NOX at 7.8 RVP for Comparison w/ Basic I/M

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.050	.088	.073	.069	.071	.068	.063	.046	.038	.044	LDGV
.044	.049	.047	.039	.030	.019	.022	.021	.019	.013	
.013	.013	.012	.010	.039						
.055	.099	.098	.092	.097	.073	.062	.033	.027	.029	LDGT1
.031	.047	.044	.037	.028	.017	.023	.023	.019	.013	
.010	.009	.008	.006	.020						
.038	.072	.071	.059	.064	.070	.067	.056	.046	.039	LDGT2
.009	.069	.060	.051	.039	.025	.023	.025	.018	.014	
.010	.011	.010	.007	.027						
.036	.062	.063	.056	.058	.063	.062	.049	.042	.035	HDGV
.031	.065	.056	.050	.039	.032	.029	.033	.024	.018	
.016	.016	.011	.011	.043						
.050	.088	.073	.069	.071	.068	.063	.046	.038	.044	LDDV
.044	.049	.047	.039	.030	.019	.022	.021	.019	.013	
.013	.013	.012	.010	.039						
.055	.099	.098	.092	.097	.073	.062	.033	.027	.029	LDDT
.031	.047	.044	.037	.028	.017	.023	.023	.019	.013	
.010	.009	.008	.006	.020						
.057	.107	.103	.075	.080	.097	.089	.052	.046	.035	HDDV
.042	.047	.034	.028	.012	.014	.017	.019	.012	.009	
.006	.005	.005	.002	.007						
.144	.168	.135	.109	.088	.070	.056	.045	.036	.029	MC
.023	.097	.000	.000	.000	.000	.000	.000	.000	.000	
.000	.000	.000	.000	.000						

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PTLD 1997 HC EF 62.0 98. 7.8 7.8 20 1 1

1 97 19.6 86.0 20.6 27.3 20.6 7

1997 Portland HC,CO, NOX at 7.8 RVP for Comparison w/ Basic I/M  
 MOBILE5a (26-Mar-93)  
 OI/M program selected:

0 Start year (January 1): 1975  
 Pre-1981 MYR stringency rate: 47%  
 First model year covered: 1975  
 Last model year covered: 2020  
 Waiver rate (pre-1981): 0.%  
 Waiver rate (1981 and newer): 0.%  
 Compliance Rate: 95.%  
 Inspection type: Test Only  
 Inspection frequency: Biennial  
 Vehicle types covered: LDGV - Yes  
 LDGT1 - Yes  
 LDGT2 - Yes  
 HDGV - Yes  
 1981 & later MYR test type: 2500 rpm / Idle  
 Cutpoints, HC: 220.000 CO: 1.200 NOx: 999.000

0Functional Check Program Description:

Check Start (Jan1)	Model Yrs Covered	Vehicle Classes	LDGV	LDGT1	LDGT2	HDGV	Inspection Type	Inspection Freq	Comp Rate
ATP 1977	1975-2020	Yes	Yes	Yes	Yes	Yes	Test Only	Biennial	95.0%
Air pump system disablements:		Yes	Catalyst removals:						
Fuel inlet restrictor disablements:		Yes	Tailpipe lead deposit test: No						
EGR disablement:		Yes	Evaporative system disablements:						
PCV system disablements:		Yes	Missing gas caps:						

OPTLD 1997 HC EF

Minimum Temp: 62. (F) Maximum Temp: 98. (F)  
 Period 1 RVP: 7.8 Period 2 RVP: 7.8 Period 2 Yr:

2020  
 0VOC HC emission factors include evaporative HC emission factors.

0Emission factors are as of July 1st of the indicated calendar year.  
 0User supplied veh registration distributions.

0Cal. Year: 1997 Region: Low Altitude: 500. Ft.  
 I/M Program: Yes Ambient Temp: 88.8 / 88.8 / 88.8  
 F Anti-tam. Program: Yes Operating Mode: 20.6 / 27.3 / 20.6  
 Reformulated Gas: No

Veh. Type	LDGV	LDGT1	LDGT2	LDGT	HDGV	LDDV	LDDT	HDDV	MC	All
Veh. Spd.:	19.6	19.6	19.6		19.6	19.6	19.6	19.6	19.6	
VMT Mix:	0.600	0.194	0.086		0.036	0.002	0.001	0.073	0.007	
Composite Emission Factors (Gm/Mile)										
VOC HC:	2.43	2.12	3.14	2.44	5.34	0.80	1.03	2.23	6.10	2.54
Exhst CO:	17.87	17.01	24.04	19.18	52.63	1.79	1.94	11.30	25.34	19.01
Exhst NOX:	1.56	1.51	2.13	1.70	4.92	1.62	1.75	10.73	0.77	2.38



1997 Portland without I/M for VOC, CO, NOX EFs at 19.6 mph

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1	.050	.088	.073	.069	.071	.068	.063	.046	.038	.044	LDGV
	.044	.049	.047	.039	.030	.019	.022	.021	.019	.013	
	.013	.013	.012	.010	.039						
	.055	.099	.098	.092	.097	.073	.062	.033	.027	.029	LDGT1
	.031	.047	.044	.037	.028	.017	.023	.023	.019	.013	
	.010	.009	.008	.006	.020						
	.038	.072	.071	.059	.064	.070	.067	.056	.046	.039	LDGT2
	.079	.069	.060	.051	.039	.025	.023	.025	.018	.014	
	.010	.011	.010	.007	.027						
	.036	.062	.063	.056	.058	.063	.062	.049	.042	.035	HDGV
	.031	.065	.056	.050	.039	.032	.029	.033	.024	.018	
	.016	.016	.011	.011	.043						
	.050	.088	.073	.069	.071	.068	.063	.046	.038	.044	LDDV
	.044	.049	.047	.039	.030	.019	.022	.021	.019	.013	
	.013	.013	.012	.010	.039						
	.055	.099	.098	.092	.097	.073	.062	.033	.027	.029	LDDT
	.031	.047	.044	.037	.028	.017	.023	.023	.019	.013	
	.010	.009	.008	.006	.020						
	.057	.107	.103	.075	.080	.097	.089	.052	.046	.035	HDDV
	.042	.047	.034	.028	.012	.014	.017	.019	.012	.009	
	.006	.005	.005	.002	.007						
	.144	.168	.135	.109	.088	.070	.056	.045	.036	.029	MC
	.023	.097	.000	.000	.000	.000	.000	.000	.000	.000	
	.000	.000	.000	.000	.000						
PTLD	1997	HC	EF	62.0	98.	7.8	7.8	20	1	1	
1	97	19.6	86.0	20.6	27.3	20.6	7				

1997 Portland without I/M for VOC, CO, NOX EFs at 19.6 mph  
 MOBILE5a (26-Mar-93)  
 OPTLD 1997 HC EF

Minimum Temp: 62. (F) Maximum Temp: 98. (F)  
 Period 1 RVP: 7.8 Period 2 RVP: 7.8 Period 2 Yr:

2020  
 0VOC HC emission factors include evaporative HC emission factors.  
 0

0Emission factors are as of July 1st of the indicated calendar year.  
 0User supplied veh registration distributions.

0Cal. Year: 1997 Region: Low Altitude: 500. Ft.  
 I/M Program: No Ambient Temp: 88.8 / 88.8 / 88.8

F Anti-tam. Program: No Operating Mode: 20.6 / 27.3 / 20.6  
 Reformulated Gas: No

0Veh. Type: LDGV LDGT1 LDGT2 LDGT HDGV LDDV LDDT HDDV MC All  
 Veh  
 +

Veh. Spd.:	19.6	19.6	19.6	19.6	19.6	19.6	19.6	19.6	19.6	
VMT Mix:	0.600	0.194	0.086	0.036	0.002	0.001	0.073	0.007		
0Composite Emission Factors (Gm/Mile)										
VOC HC:	2.93	2.75	3.99	3.13	5.66	0.80	1.03	2.23	6.10	3.05
Exhst CO:	24.56	23.98	34.82	27.31	57.81	1.79	1.94	11.30	25.34	25.49
Exhst NOX:	1.60	1.62	2.27	1.82	4.98	1.62	1.75	10.73	0.77	2.45

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 MOBILE5a (26-Mar-93)  
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 -M.89 Error:  
 + 0 out of bounds for flag PROMPT (1 to 4)

ACCOUNTING MONTH OF DEC 1991

(3) BIENNIUM ENDING 06/30/83

01/21/92

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PORTLAND MOTOR VEHICLES PROGRAM

	VOUCHERED THIS MONTH	VOUCHERED TO DATE	ENCUMBRANCES	APPROPRIATION OR LIMITATION	UNOBLIGATED BALANCE	- - - MONTHLY AVERAGE TO DATE	- - - TO SPEND
000.100 GROSS PAYROLL EXPENSE	112,701.46	596,508.24		2651,168.00	2054,659.76	99,418.04	114,147.76
000.200 OTHER PAYROLL EXPENSE	44,180.22	227,719.41		934,043.00	706,323.59	37,953.24	39,240.20
001.000 IN-STATE TRAVEL	1,586.36	9,389.19	989.00	31,805.00	21,426.81	1,729.70	1,190.38
002.000 OUT-OF-STATE TRAVEL				4,243.00	4,243.00		235.72
003.000 REGIONAL TRAVEL	18.60	102.04		498.00	395.96	17.01	22.00
004.000 OFFICE EXPENSE	1,008.66	5,866.63	204.39	11,341.00	5,269.98	1,011.84	292.78
005.000 TELECOMMUNICATIONS	1,518.62	7,361.52	880.00	26,369.00	18,127.48	1,373.59	1,007.08
006.000 STATE GOVT SERVICE CHARGE		225.37		516.00	290.63		16.15
007.000 DATA PROCESSING EXPENSE		17.70	1,655.24	638.00	1,034.94	278.82	57.50
008.000 PUBLICITY & PUBLICATIONS	10.00	14,078.56	3,430.00	27,857.00	10,348.44	2,918.09	574.91
009.000 PROFESSIONAL SERVICES				19,839.00	19,839.00		1,102.17
010.000 ATTORNEY GENERAL	86.40	228.40		4,759.00	4,530.60	38.07	251.70
011.000 EMPLOYEE RCRTMNT & DVLP		2,163.94	440.00	2,004.00	599.94	433.99	33.33
012.000 FACILITIES RENTAL	26,754.80	162,577.85		682,262.00	519,684.15	27,096.31	28,871.34
013.000 FUELS & UTILITIES	2,556.55	13,237.01		52,464.00	39,226.99	2,206.17	2,179.28
014.000 FACILITIES MAINTENANCE	537.00	3,827.90		9,866.00	6,038.10	637.98	335.45
016.000 PROGRAM RELATED S & S		75.05	200.00	52,516.00	52,240.95	45.84	2,902.28
017.000 OTHER SERVICES/SUPPLIES	6,265.69	20,809.38	2,708.31	54,521.00	31,003.31	3,919.62	1,722.41
020.000 CAPITAL OUTLAY	3,263.80	3,683.80	18,543.16	141,063.00	118,836.04	3,704.49	6,602.00
030.000 SPECIAL PAYMENTS				76,499.00	76,499.00		4,249.94
951.100				1.00	1.00		.06
PERSONAL SERVICES	156,881.68	824,227.65		3585,211.00	2760,983.35	137,371.28	153,387.96
SERVICÉS AND SUPPLIES	40,342.68	239,960.54	10,506.94	981,498.00	731,030.52	41,744.58	40,612.81
CAPITAL OUTLAY	3,263.80	3,683.80	18,543.16	141,063.00	118,836.04	3,704.49	6,602.00
SPECIAL PAYMENTS				76,499.00	76,499.00		4,249.94
OBJECT CLASS NOT ON FILE				1.00	1.00		.06
* FUND TOTAL	200,488.16	1067,871.99	29,050.10	4784,272.00	3687,349.91	182,820.35	204,852.77

APPENDIX D

ATTACHMENT A-2

## VEHICLE TITLE AND REGISTRATION

803.305

(a) Alters or forges or causes to be altered or forged any certificate of title or certificate of registration issued by the division under the vehicle code or any assignment thereof or any certificate of registration issued by the Public Utility Commission.

(b) Holds or uses certificate of title, certificate of registration or assignment thereof issued by the division or by the Public Utility Commission knowing the certificate or assignment has been altered or forged.

(c) Unless authorized by the division or by the Public Utility Commission, prints or produces or causes to be printed or produced any certificate of title or certificate of registration required by the vehicle code or by the Public Utility Commission or any assignment thereof.

(d) Holds or uses any certificate of title, certificate of registration or assignment thereof required by the vehicle code or by the Public Utility Commission knowing that it has been printed or produced without authority from the division or the Public Utility Commission.

(2) The offense described in this section, forging, altering or unlawfully producing or using vehicle titles or registration, is a Class C felony.

## REGISTRATION

## (General Provisions)

**803.300 Failure to register; penalty.** (1)

A person commits the offense of failure to register a vehicle if the person owns a vehicle in this state and the person does not register the vehicle in this state.

(2) In addition to other persons subject to this section, this section applies to out-of-state corporations owning, operating or maintaining a place of business in this state with regard to vehicles that are used by the corporation doing business in this state.

(3) Exemptions from this section are established under ORS 803.305.

(4) The offense described in this section, failure to register a vehicle, is a Class C traffic infraction. [1983 c.338 §205; 1985 c.16 §74; 1985 c.401 §4]

**803.305 Exemptions from general registration requirements.** This section establishes exemptions from the requirements under ORS 803.300. The exemptions under this section are in addition to any exemptions under ORS 801.026. Vehicles exempted by this section from the requirements to be registered by this state are not prohibited from being registered by this state if registration is permitted under ORS 803.310. The following are exempt, either partially or completely as described, from the registration requirements under ORS 803.300:

(1) Road rollers, farm tractors, trolleys and traction engines are exempt from registration.

(2) Bicycles are exempt from registration.

(3) A vehicle is exempt from registration if it has registration issued for the vehicle by the Armed Forces of the United States

where the registration is issued in a foreign country to a vehicle owned by a member of the Armed Forces. The exemption granted by this subsection applies only for a period of 45 days from the time the vehicle is returned to the United States.

(4) A vehicle is exempt from registration if it is not operated on the highways of this state. No mobile home is exempt by this subsection. This subsection does not affect any exemption established under ORS 820.510.

(5) A trailer is exempt from registration if it is equipped with pneumatic tires made of elastic material and is not operated in this state with a loaded weight of more than 1,800 pounds. No trailer for hire, travel trailer, camper or mobile home is exempt by this subsection.

(6) Vehicles owned and operated by the United States Government are exempt from registration.

(7) Snowmobiles and Class I and Class III all-terrain vehicles are subject to the requirements for registration provided under ORS 821.080 to 821.110.

(8) Mobile homes are subject to ORS 803.300 as provided under ORS 820.500, 820.510 and 820.530.

(9) Implements of husbandry, well drilling machinery, emergency fire apparatus providing public fire protection and invalid chairs are exempt from registration.

(10) Farm tractors and farm trailers on highways are exempt from registration when the operation of the vehicle upon the highway is incidental to its use in an agricultural operation.

(11) Fixed load vehicles are exempt from registration while the vehicles are operated:

(a) In the construction or reconstruction of state or county roads, highways or city streets; and

(b) Within the immediate construction projects, as described in the governmental agency contract under which the work is being performed.

(12) Motor vehicles designed to operate at a loaded weight over 8,000 pounds, trailers and equipment are exempt from registration while being used for the purposes of forest protection and fire suppression under ORS chapter 477 or a similar federal statute. The exemption under this subsection applies to the vehicles or equipment described while being moved to or from the work area. The exemption under this subsection only applies to vehicles or equipment owned, leased, contracted for or requisitioned by the State Forester or State Board of Forestry, a contractor of the State Forester or State Board

of Forestry under ORS chapter 477 or the United States Government.

(13) Golf cart exemptions from registration are as provided in ORS 820.210.

(14) Vehicles currently registered and titled in any other country, state or territory are not required to be registered by this state. All of the following apply to this subsection:

(a) This subsection only provides an exemption as long as the owner of the vehicle satisfactorily shows that the owner is not a resident of this state as described under ORS 803.200.

(b) The exemption under this subsection applies to vehicles granted exemptions under ORS 768.003, 802.500 or 802.520 unless otherwise provided for under paragraph (c) of this subsection.

(c) Except as otherwise provided in this paragraph, a vehicle operated over the highways of this state for compensation or profit must comply with the registration requirements under ORS 803.300 in the same manner as vehicles owned by persons in this state. The following vehicles are not subject to this paragraph:

(A) Vehicles operated under reciprocal registration exemptions established under ORS 768.003 or 802.500.

(B) Vehicles operated under an exemption established under ORS 802.520.

(C) Vehicles that are proportionally registered under an agreement established under ORS 768.005 and according to the procedures established under ORS 768.007 and 768.009.

(D) Any vehicle if duly registered and titled under the laws of the state or country of which the owner is a bona fide resident to the extent that in the foreign country, state, territory or federal district where the owner resides like exemptions and privileges are granted vehicles duly registered and titled under the laws of this state and owned by residents of this state.

(d) If no exemption from registration requirements is in effect under ORS 768.003, 768.005, 802.500 or 802.520 with respect to another jurisdiction, any vehicle properly registered and titled in such other jurisdiction and for which evidence of compliance is supplied shall receive, when operated in this state, the same exemptions, benefits and privileges granted by such other jurisdictions to vehicles properly registered and titled in this state. Reciprocity extended under this paragraph shall apply to commercial vehicles only when engaged exclusively in interstate commerce.

(e) Any vehicle operated under dealer registration plates issued by another state,

country, province, territory or the District of Columbia is subject to this subsection.

(15) Vehicles operated or used by vehicle dealers may be operated or used without registration as provided under ORS 822.040.

(16) Vehicles towed by towing businesses may be towed without registration as provided under ORS 822.210.

(17) Vehicles without registration may be transported by vehicle transporters as provided under ORS 822.310.

(18) Vehicles that are not registered may be operated under trip permits described under ORS 803.600 or under permits described under ORS 803.610 to 803.625.

(19) If trailers that are part of a fleet of trailers for hire are properly registered in this state under ORS 805.130, all trailers that are identified as being a part of the same fleet and that are currently registered in any state, territory, province, country or the District of Columbia shall be permitted to operate in this state in both interstate and intrastate commerce without being registered by this state.

(20) Vehicles that are registered by the United States Department of State and that are owned or operated by foreign nationals with diplomatic immunity are exempt from registration.

(21) Tow dollies and converter dollies are exempt from registration. [1983 c.338 §206; 1985 c.16 §75; 1985 c.333 §7; 1985 c.401 §5; 1985 c.459 §4; 1985 c.668 §7; 1987 c.25 §2; 1989 c.43 §20; 1989 c.991 §25; 1991 c.284 §15; 1991 c.459 §438g]

**803.310 Optional registration.** (1) The division, by rule, may provide for optional registration of vehicles that are exempt from vehicle registration requirements by ORS 803.305. The rules adopted for purposes of this subsection may provide for the registration of categories of vehicles, types of vehicles or otherwise. Upon request of an owner, the division may issue registration for a vehicle that meets the requirements of rules adopted under this section.

(2) A vehicle that is registered under this section is subject to the same provisions, conditions, fees and other requirements for registration as are other vehicles under the vehicle code. [1985 c.333 §6]

**803.315 Failure to pay registration fee; penalty.** (1) A person commits the offense of failure to pay the appropriate registration fee if the person operates any vehicle or transports any camper that is registered in this state unless the proper fee, as established under ORS 803.420 or 820.580, has been paid for registration of the vehicle.

(2) The offense described in this section, failure to pay appropriate registration fee, is

a Class C traffic infraction. [1983 c.338 §207; 1985 c.16 §76]

**803.320 Permitting unlawful operation of unregistered vehicle prohibited; penalty.** (1) A person commits the offense of permitting unlawful operation of an unregistered vehicle if the person authorizes or knowingly permits a motor vehicle that is owned by the person or under the person's control and that is not registered as required under the vehicle code to be driven by any person.

(2) The offense described in this section, permitting unlawful operation of unregistered vehicle, is a Class B traffic infraction. [1983 c.338 §208]

**Note:** The amendments to 803.320 by section 23, chapter 407, Oregon Laws 1991, become operative January 1, 1993. See section 39, chapter 407, Oregon Laws 1991. The text that is operative on and after January 1, 1993, is set forth for the user's convenience.

**803.320.** (1) A person commits the offense of permitting unlawful operation of an unregistered vehicle if the person authorizes or knowingly permits a motor vehicle that is owned by the person or under the person's control and that is not registered as required under the vehicle code or ORS chapter 768 to be driven by any person.

(2) The offense described in this section, permitting unlawful operation of unregistered vehicle, is a Class B traffic infraction.

**803.325 Purchase and use of out-of-state registered vehicle prohibited; requirements; penalty.** (1) A person commits the offense of purchase and use of an out-of-state registered vehicle by a resident if the person is a resident of this state and the person purchases a vehicle registered outside of this state without doing all of the following:

(a) Upon purchase, the person shall remove the registration plates and shall cause the vehicle to be registered as provided under the vehicle code for vehicles owned by residents of this state.

(b) The person shall not use, within this state, the vehicle except when the person has paid fees and has complied with the vehicle code.

(2) The offense described in this section, purchase and use of out-of-state registered vehicle by resident, is a Class C traffic infraction. [1983 c.338 §209; 1985 c.16 §77]

**Note:** The amendments to 803.325 by section 24, chapter 407, Oregon Laws 1991, become operative January 1, 1993. See section 39, chapter 407, Oregon Laws 1991. The text that is operative on and after January 1, 1993, is set forth for the user's convenience.

**803.325.** (1) A person commits the offense of purchase and use of an out-of-state registered vehicle by a resident if the person is a resident of this state and the person purchases a vehicle registered outside of this state without doing all of the following:

(a) Upon purchase, the person shall remove the registration plates and shall cause the vehicle to be registered as provided under the vehicle code or under

ORS chapter 768, as appropriate, for vehicles owned by residents of this state.

(b) The person shall not use, within this state, the vehicle except when the person has paid fees and has complied with the vehicle code or with ORS chapter 768, as appropriate.

(2) The offense described in this section, purchase and use of out-of-state registered vehicle by resident, is a Class C traffic infraction.

### (Qualifications)

**803.350 Qualifications for registration; fee.** This section establishes the requirements for qualification for registration. The division shall not issue registration to a vehicle if the requirements under this section are not met. The division, in the absence of just cause for refusing to register a vehicle upon application, shall assign a distinctive number or other distinctive means of identification and shall issue registration for a vehicle if all of the following requirements are met:

(1) The applicant applies for and is granted a certificate of title in the applicant's name at the same time the person makes application for registration, or presents satisfactory evidence that a certificate of title covering the vehicle has been previously issued to the applicant.

(2) The applicant completes an application described under ORS 803.370. If the vehicle is a reconstructed or assembled vehicle or a replica, the person must state that fact in the application or be subject to ORS 803.225.

(3) The applicant pays the division the registration fee established under ORS 803.420 and any applicable fees for issuance of registration plates.

(4) For motor vehicles, proof of compliance with pollution control equipment requirements is provided to the division. Proof required to comply with this subsection is described under ORS 815.310. This subsection does not apply if the vehicle is exempt from the requirements for proof of compliance under ORS 815.300.

(5) If inspection of the vehicle is required by ORS 803.210:

(a) The person must surrender to the division all of the registration plates, seals, certificates of registration or other evidences of the former registration in the applicant's possession or control;

(b) The vehicle must be inspected as described in ORS 803.212; and

(c) The inspection fee under ORS 803.215 must be paid.

(6) If required by the division, the applicant submits proof of ownership or submits an affidavit as described under ORS 803.205.

(7) The applicant is domiciled in this state, as described in ORS 803.355, if required by ORS 803.360 to be domiciled in the state in order to register a vehicle. If the division has reason to believe that the applicant is not domiciled in this state and is required to be in order to register a vehicle, the division may require the person to submit proof of domicile. The division shall determine by rule what constitutes proof of domicile.

(8) The applicant owns a vehicle that qualifies under ORS 803.360 (2) for registration in this state, if the owner is not domiciled in this state and is not required by ORS 803.200, or any other provision of law, to register the vehicle in this state.

(9) The applicant surrenders all evidence of any former registration or title as required by ORS 803.380. [1983 c.338 §210; 1985 c.16 §78; 1985 c.305 §9; 1985 c.402 §11; 1987 c.146 §7; 1989 c.22 §1]

**803.355 "Domicile" described.** For purposes of ORS 803.350 to 803.370 and 807.045, a person is domiciled in this state if the person's place of abode is in the state and the person intends to remain in the state or, if absent, to return to it. [1985 c.305 §7; 1989 c.636 §15]

**803.360 Domicile in state required; exceptions.** (1) No person may register or renew the registration of a vehicle in this state unless the person is domiciled in this state, as described in ORS 803.355. This section does not apply to persons required by ORS 803.200 or any other provision of law, to register vehicles in this state.

(2) Notwithstanding subsection (1) of this section, a person who is not domiciled in this state may register or renew the registration of a vehicle that:

(a) Is usually left within the state when the registered owner is absent from the state;

(b) Is used primarily for personal transportation within the state;

(c) Is a private passenger vehicle or a vehicle with a loaded weight of less than 8,000 pounds; and

(d) Is not a motor home or a camper. [1985 c.305 §8]

#### (Application)

**803.370 Contents of application.** This section establishes requirements for an application for vehicle registration in this state. If an applicant fails to comply with requirements under this section, the division may refuse to register or reregister a vehicle until the applicant complies with the requirements. An application shall be duly signed by the owner and shall contain all of the following:

(1) The true name and, except as provided for officers or eligible employees in ORS 802.250, actual residence or business address of the owner.

(2) A description of the vehicle, including the name of the make and the vehicle identification number.

(3) An odometer disclosure in a form determined by the division by rule pursuant to ORS 803.120, if a disclosure is otherwise required.

(4) Any other information required by the division.

(5) If the application is for registration or reregistration of a vehicle that is subject to the federal heavy vehicle use tax, proof that the federal use tax has been paid. The division shall adopt rules to determine proof that will be acceptable for purposes of this subsection.

(6) A statement that the applicant is domiciled in this state as described in ORS 803.355 if the applicant is required by ORS 803.360 to be domiciled in this state in order to register a vehicle in the state.

(7) A statement that the vehicle qualifies under ORS 803.360 (2) for registration in this state, if the owner is not domiciled in this state and is not required by ORS 803.200, or any other provision of law, to register the vehicle in this state. [1983 c.338 §211; 1985 c.16 §79; 1985 c.251 §18; 1985 c.305 §10; 1985 c.563 §4; 1989 c.695 §3; 1991 c.67 §215; 1991 c.523 §4; 1991 c.873 §15]

**803.375 False application prohibited; penalty.** (1) A person commits the offense of false application for vehicle registration if the person does any of the following:

(a) Knowingly makes any false statement or representation with respect to any facts required to be set forth in any application for registration.

(b) Uses a name other than the person's true name in any application for registration.

(2) The penalty for submitting a false odometer reading in an application for registration is as provided in ORS 815.430.

(3) The offense described in this section, false application for vehicle registration, is a Class A misdemeanor. [1983 c.338 §212; 1985 c.16 §80; 1985 c.251 §19]

**803.380 Failure to surrender out-of-state registration; penalty.** (1) A person commits the offense of failure to surrender out-of-state registration, if the person registers a vehicle in this state that has been registered in another jurisdiction and the person does not surrender to the division all number plates, seals, certificates of registration or other evidences of the former registration in possession or control of the applicant.

(2) The offense described in this section, failure to surrender out-of-state registration, is a Class D traffic infraction. [1983 c.338 §213; 1985 c.16 §81]

**Note:** The amendments to 803.380 by section 25, chapter 407, Oregon Laws 1991, become operative January 1, 1993. See section 39, chapter 407, Oregon Laws 1991. The text that is operative on and after January 1, 1993, is set forth for the user's convenience.

**803.380.** (1) A person commits the offense of failure to surrender out-of-state registration, if the person registers a vehicle in this state that has been registered in another jurisdiction and the person does not surrender to the division or to the Public Utility Commission, as appropriate, all number plates, seals, certificates of registration or other evidences of the former registration in possession or control of the applicant.

(2) The offense described in this section, failure to surrender out-of-state registration, is a Class D traffic infraction.

**803.385 False swearing relating to registration; penalty.** (1) A person commits the offense of false swearing relating to registration of vehicles if the person knowingly makes any false affidavit or knowingly swears or affirms falsely to any matter or thing relating to the registering of vehicles under the vehicle code.

(2) The penalty for submitting a false odometer reading in an application or on renewal of registration is as provided under ORS 815.430.

(3) The offense described in this section, false swearing relating to registration of vehicles, is a Class A misdemeanor. [1983 c.338 §214; 1985 c.251 §20; 1985 c.393 §5]

**Note:** The amendments to 803.385 by section 26, chapter 407, Oregon Laws 1991, become operative January 1, 1993. See section 39, chapter 407, Oregon Laws 1991. The text that is operative on and after January 1, 1993, is set forth for the user's convenience.

**803.385.** (1) A person commits the offense of false swearing relating to registration of vehicles if the person knowingly makes any false affidavit or knowingly swears or affirms falsely to any matter or thing relating to the registering of vehicles under the vehicle code or under ORS chapter 768.

(2) The penalty for submitting a false odometer reading in an application or on renewal of registration is as provided under ORS 815.430.

(3) The offense described in this section, false swearing relating to registration of vehicles, is a Class A misdemeanor.

### (Periods and Fees)

**803.400 Duration of registration periods.** This section establishes and distinguishes registration periods. Each registration period determines the period of validity for vehicle registration. Registration under the following registration periods is valid during the described registration period:

(1) Annual registration is valid for a one-year period. The period starts on the first day of a calendar month and runs through

the last day of the same calendar month one year later. Once a vehicle is registered under annual registration, the registration period of the vehicle begins and ends with that same calendar month each time the vehicle is reregistered or registration for the vehicle is renewed.

(2) Biennial registration is valid for a two-year period. The period starts on the day a vehicle is registered and runs through the same day two years later. Once a vehicle is registered under biennial registration, the registration period of the vehicle begins and ends with that same day each time the vehicle is reregistered or registration for the vehicle is renewed. Vehicles initially registered on February 29 will expire on the last day of February two years later.

(3) Calendar-year registration starts on January 1 of a year and runs through December 31 of the same year.

(4) Ownership registration starts on the day the vehicle is registered and is valid until the ownership of the vehicle changes.

(5) Permanent registration starts on the day the vehicle is registered and is valid for the life of the vehicle.

(6) Quarterly registration starts on the first day of any calendar quarter and runs through the last day of the last calendar quarter in the registration period. The number of calendar quarters in a quarterly registration is elected by the vehicle owner at the time of registration. A person may not establish quarterly registration periods for more than four quarters. If a vehicle is registered for a quarterly registration period of less than four calendar quarters, the division shall collect, when issuing or renewing registration of the vehicle, the additional fee for quarterly registration established under ORS 803.420.

(7) Special five-year registration is valid for a five-year period. The period starts on the first day of a calendar month and runs through the last day of the same calendar month five years later. Once a vehicle is registered under special registration, the registration periods of the vehicle begin and end with that same month each time the vehicle is reregistered or registration for the vehicle is renewed. [1983 c.338 §222; 1989 c.76 §1]

**803.405 Effect of initial registration month.** (1) The month in which any vehicle is initially registered under annual registration is the month established as the beginning and ending of registration periods for the vehicle unless the division adjusts the registration month of the vehicle upon initial registration under ORS 803.410.

(2) The day on which any vehicle is initially registered under biennial registration



or when required under ORS 820.520 is the day established as the beginning and ending of registration periods for the vehicle unless the division adjusts the registration period of the vehicle upon initial registration under ORS 803.410. [1983 c.338 §223; 1989 c.76 §2]

**803.410 Division authorized to adjust periods and fees.** The division is empowered to administer ORS 803.400 and 803.405, relating to the registration periods of vehicles and to adopt and enforce rules, including rules for the adjustment or proration of fees and registration periods, necessary to accomplish the enforcement of those sections. The authority granted the division under this section is subject to the following:

(1) The division may initially register a vehicle that is subject to biennial registration for less than a 24-month period or for more than a 24-month period, not exceeding a maximum of a 30-month period, and prorate the fee on a monthly basis, when in its opinion such fractional registration tends to fulfill the purpose of the biennial registration system.

(2) The division may initially adjust the registration periods of trailers for hire registered as part of a fleet under ORS 805.130 for a maximum 60-month period.

(3) The authority granted under this section includes authority to adjust the initial registration period of travel trailers and special use trailers that are required to be registered after being removed from assessment under the ad valorem tax laws by ORS 820.520.

(4) The division, by rule, may adjust registration fees or registration periods for a vehicle, as is administratively convenient for the division, if:

(a) The vehicle is changed from one type of registration to another type; or

(b) Any other change relating to the registration of the vehicle is made where it would be administratively convenient for the division to make such adjustments. [1983 c.338 §224; 1985 c.16 §83; 1985 c.253 §3; 1987 c.750 §6; 1989 c.43 §21]

**803.415 Registration periods for vehicles.** This section establishes registration periods for vehicles. The registration periods are periods described under ORS 803.400. Except as provided in the following, the registration period for any vehicle registered in this state is a biennial registration period:

(1) The following vehicles have permanent registration:

(a) Antique vehicles registered under ORS 805.010.

(b) Vehicles of special interest registered under ORS 805.020.

(c) Trailers that will be operated on the highways at a loaded weight of more than 8,000 pounds and are not travel trailers, mobile homes, fixed load vehicles or special use trailers.

(2) Government-owned vehicles registered under ORS 805.040 have ownership registration.

(3) The following vehicles may be registered under annual or quarterly registration unless the vehicles are registered under proportional registration under ORS 768.007 or proportional fleet registration under ORS 768.009:

(a) Vehicles required to establish a registration weight under ORS 803.430.

(b) Commercial buses.

(c) Vehicles registered as farm vehicles under ORS 805.300.

(4) Snowmobiles and Class I and Class III all-terrain vehicles are registered as provided in ORS 821.080.

(5) Mobile homes are registered as provided in ORS 820.500.

(6) Vehicles operated by dealers who hold certificates under ORS 822.020 are as provided under ORS 822.040.

(7) Trailers for hire that will be operated at a loaded weight of 8,000 pounds or less may be registered as follows:

(a) Annual registration; or

(b) If registered under ORS 805.130, special five-year registration at the election of the owner.

(8) The registration period for electric vehicles is a biennial registration period except that the registration period for the following electric vehicles is an annual registration period:

(a) Commercial buses.

(b) Electric vehicles registered as farm vehicles under ORS 805.300.

(c) Vehicles required to establish registration weight under ORS 803.430.

(9) Vehicles registered under ORS 805.100 have an ownership registration period.

(10) School vehicles registered under ORS 805.050 have ownership registration except that the registration shall continue to be valid if ownership of the vehicle is transferred to a person who continues to use the vehicle for purposes authorized by ORS 805.050. [1983 c.338 §225; 1985 c.16 §84; 1985 c.177 §1; 1985 c.189 §1; 1985 c.547 §12; 1987 c.158 §162; 1987 c.217 §2; 1989 c.43 §22; 1989 c.723 §7; 1989 c.991 §26; 1991 c.284 §16]

**Note:** The amendments to 803.415 by section 27, chapter 407, Oregon Laws 1991, become operative January 1, 1993. See section 39, chapter 407, Oregon Laws

1991. The text that is operative on and after January 1, 1993, is set forth for the user's convenience.

803.415. This section establishes registration periods for vehicles. The registration periods are periods described under ORS 803.400. Except as provided in the following, the registration period for any vehicle registered in this state by the division is a biennial registration period:

(1) The following vehicles have permanent registration:

(a) Antique vehicles registered under ORS 805.010.

(b) Vehicles of special interest registered under ORS 805.020.

(c) Trailers that will be operated on the highways at a loaded weight of more than 8,000 pounds and are not travel trailers, mobile homes, fixed load vehicles or special use trailers.

(2) Government-owned vehicles registered under ORS 805.040 have ownership registration.

(3) The following vehicles may be registered under annual or quarterly registration unless the vehicles are registered under proportional registration under ORS 768.007 or proportional fleet registration under ORS 768.009:

(a) Vehicles required to establish a registration weight under ORS 803.430.

(b) Commercial buses.

(c) Vehicles registered as farm vehicles under ORS 805.300.

(4) Snowmobiles and Class I and Class III all-terrain vehicles are registered as provided in ORS 821.080.

(5) Mobile homes are registered as provided in ORS 820.500.

(6) Vehicles operated by dealers who hold certificates under ORS 822.020 are as provided under ORS 822.040.

(7) Trailers for hire that will be operated at a loaded weight of 8,000 pounds or less may be registered as follows:

(a) Annual registration; or

(b) If registered under ORS 805.130, special five-year registration at the election of the owner.

(8) The registration period for electric vehicles is a biennial registration period except that the registration period for the following electric vehicles is an annual registration period:

(a) Commercial buses.

(b) Electric vehicles registered as farm vehicles under ORS 805.300.

(c) Vehicles required to establish registration weight under ORS 803.430.

(9) Vehicles registered under ORS 805.100 have an ownership registration period.

(10) School vehicles registered under ORS 805.050 have ownership registration except that the registration shall continue to be valid if ownership of the vehicle is transferred to a person who continues to use the vehicle for purposes authorized by ORS 805.050.

**803.420 Registration fees.** This section establishes registration fees for vehicles. If there is uncertainty as to the classification of a vehicle for purposes of the payment of registration fees under the vehicle code, the division may classify the vehicle to assure that registration fees for the vehicle are the same as for vehicles the division determines to be comparable. The registration fees for

the vehicle shall be those based on the classification determined by the division. The fees described in this section are for an entire registration period for the vehicle as described under ORS 803.415, unless the vehicle is registered quarterly. The division shall apportion any fee under this section to reflect the number of quarters registered for a vehicle registered for a quarterly registration period under ORS 803.415. The fees are payable when a vehicle is registered and upon renewal of registration. Except as provided in ORS 801.041 (3) and 801.042 (7), the fee shall be increased by any amount established by the governing body of a county or by the governing body of a district, as defined in ORS 801.237 under ORS 801.041 or 801.042 as an additional registration fee for the vehicle. The fees for registration of vehicles are as follows:

(1) Vehicles not otherwise provided for in this section or ORS 820.580 or 821.320, \$30.

(2) Mopeds, \$9.

(3) Motorcycles, \$9.

(4) Government-owned vehicles registered under ORS 805.040, \$2.

(5) State-owned vehicles with regular registration plates registered under ORS 805.045, \$2 on registration or renewal.

(6) Undercover vehicles registered under ORS 805.060, \$2 on registration or renewal.

(7) Antique vehicles registered under ORS 805.010, \$30.

(8) Vehicles of special interest registered under ORS 805.020, \$45.

(9) Electric vehicles as follows:

(a) The registration fee for an electric vehicle not otherwise described in this subsection is \$60.

(b) The registration fee for electric vehicles that have two or three wheels is \$30. This paragraph does not apply to electric mopeds. Electric mopeds are subject to the same registration fee as otherwise provided for mopeds under this section.

(c) The registration fees for the following electric vehicles are the same as for comparable nonelectric vehicles described in this section plus 50 percent of such fee:

(A) Motor homes.

(B) Commercial buses.

(C) Vehicles registered as farm vehicles under ORS 805.300.

(D) Vehicles required to establish registration weight under ORS 768.011 or 803.430.

(10) Motor vehicles required to establish a registration weight under ORS 768.011 or 803.430, and commercial buses as provided in the following chart, based upon the weight

submitted in the weight certificate prepared under ORS 768.013 or 803.435:

Weight in Pounds	Fee
8,000 or less	\$ 15
8,001 to 10,000	125
10,001 to 12,000	140
12,001 to 14,000	155
14,001 to 16,000	170
16,001 to 18,000	190
18,001 to 20,000	210
20,001 to 22,000	230
22,001 to 24,000	250
24,001 to 26,000	270
26,001 to 28,000	120
28,001 to 30,000	125
30,001 to 32,000	135
32,001 to 34,000	140
34,001 to 36,000	150
36,001 to 38,000	155
38,001 to 40,000	165
40,001 to 42,000	170
42,001 to 44,000	180
44,001 to 46,000	185
46,001 to 48,000	190
48,001 to 50,000	200
50,001 to 52,000	210
52,001 to 54,000	215
54,001 to 56,000	220
56,001 to 58,000	230
58,001 to 60,000	240
60,001 to 62,000	250
62,001 to 64,000	260
64,001 to 66,000	265
66,001 to 68,000	275
68,001 to 70,000	280
70,001 to 72,000	290
72,001 to 74,000	295
74,001 to 76,000	305
76,001 to 78,000	310
78,001 to 80,000	320
80,001 to 82,000	325
82,001 to 84,000	335
84,001 to 86,000	340
86,001 to 88,000	350
88,001 to 90,000	355
90,001 to 92,000	365
92,001 to 94,000	370
94,001 to 96,000	380
96,001 to 98,000	385
98,001 to 100,000	390
100,001 to 102,000	400
102,001 to 104,000	405
104,001 to 105,500	415

(11)(a) Motor vehicles with a registration weight of more than 8,000 pounds that are described in ORS 767.022, that are operated by a charitable organization as described in ORS 767.025 (15), that are certified under ORS 822.205 or that are used exclusively to transport mobile homes, as provided in the following chart:

Weight in Pounds	Fee
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Weight Range	Fee
8,001 to 10,000	\$ 50
10,001 to 12,000	60
12,001 to 14,000	65
14,001 to 16,000	75
16,001 to 18,000	80
18,001 to 20,000	90
20,001 to 22,000	95
22,001 to 24,000	105
24,001 to 26,000	110
26,001 to 28,000	120
28,001 to 30,000	125
30,001 to 32,000	135
32,001 to 34,000	140
34,001 to 36,000	150
36,001 to 38,000	155
38,001 to 40,000	165
40,001 to 42,000	170
42,001 to 44,000	180
44,001 to 46,000	185
46,001 to 48,000	190
48,001 to 50,000	200
50,001 to 52,000	210
52,001 to 54,000	215
54,001 to 56,000	220
56,001 to 58,000	230
58,001 to 60,000	240
60,001 to 62,000	250
62,001 to 64,000	260
64,001 to 66,000	265
66,001 to 68,000	275
68,001 to 70,000	280
70,001 to 72,000	290
72,001 to 74,000	295
74,001 to 76,000	305
76,001 to 78,000	310
78,001 to 80,000	320
80,001 to 82,000	325
82,001 to 84,000	335
84,001 to 86,000	340
86,001 to 88,000	350
88,001 to 90,000	355
90,001 to 92,000	365
92,001 to 94,000	370
94,001 to 96,000	380
96,001 to 98,000	385
98,001 to 100,000	390
100,001 to 102,000	400
102,001 to 104,000	405
104,001 to 105,500	415

(b) The owner of a vehicle described in paragraph (a) of this subsection must certify at the time of registration, in a manner determined by the division by rule, that the motor vehicle will be used exclusively to transport mobile homes or exclusively as described in ORS 767.022, 767.025 (15) or 822.210.

(12) Trailers registered under permanent registration, \$10.

(13) Fixed load vehicles as follows:

(a) If a certificate of weight described under ORS 803.435 is submitted establishing the weight of the vehicle at 3,000 pounds or less, \$30.

(b) If no certificate of weight is submitted or if the weight of the vehicle is in excess of 3,000 pounds, \$75.

(14) Trailers for hire that are equipped with pneumatic tires made of an elastic material and that are not travel trailers, mobile homes or trailers registered under permanent registration, \$15.

(15) Trailers under ORS 805.130, for a special five-year registration as follows:

(a) A \$15 fee for the first 12 months of the five-year period and a bond in such sum as the administrator deems reasonable and adequate in the circumstances with sufficient surety, conditioned that the owner will pay a \$15 fee at the beginning of each 12-month period; or

(b) A \$75 fee for the entire five-year period.

(16) Travel trailers, campers and motor homes as follows, based on length as determined under ORS 803.425:

(a) For lengths 6 to 10 feet, \$36.

(b) For travel trailers or campers over 10 feet in length, \$36 plus \$3 a foot for each foot of length over the first 10 feet.

(c) For motor homes over 10 feet in length, \$56 plus \$3 a foot for each foot of length over the first 10 feet.

(17) Special use trailers as follows, based on length as determined under ORS 803.425:

(a) For lengths 6 to 10 feet, \$30.

(b) For special use trailers over 10 feet in length, \$30 plus \$3 a foot for each foot of length over the first 10 feet.

(18) Fees for vehicles with proportional registration under ORS 768.007, or proportioned fleet registration under ORS 768.009, are as provided for vehicles of the same type under this section except that the fees shall be fixed on an apportioned basis as provided under the agreement established under ORS 768.005.

(19) For any vehicle that is registered under a quarterly registration period, a minimum of \$15 for each quarter registered plus an additional fee of \$1.

(20) In addition to any other fees charged for registration of vehicles in fleets under ORS 805.120, the division may charge the following fees:

(a) A \$2 service charge for each vehicle entered into a fleet.

(b) A \$1 service charge for each vehicle in the fleet at the time of renewal.

(21) The registration fee for vehicles with special registration for disabled veterans under ORS 805.100 is a fee of \$15.

(22) The registration fee for mobile homes is as provided in ORS 820.580.

(23) Subject to subsection (19) of this section, the registration fee for motor vehicles registered as farm vehicles under ORS 805.300 is as follows based upon the registration weight given in the certificate of weight submitted under ORS 803.435:

Weight in Pounds	Fee
8,000 or less	\$ 15
8,001 to 10,000	30
10,001 to 12,000	35
12,001 to 14,000	45
14,001 to 16,000	50
16,001 to 18,000	60
18,001 to 20,000	65
20,001 to 22,000	75
22,001 to 24,000	80
24,001 to 26,000	90
26,001 to 28,000	95
28,001 to 30,000	105
30,001 to 32,000	110
32,001 to 34,000	120
34,001 to 36,000	125
36,001 to 38,000	135
38,001 to 40,000	140
40,001 to 42,000	150
42,001 to 44,000	155
44,001 to 46,000	165
46,001 to 48,000	170
48,001 to 50,000	180
50,001 to 52,000	185
52,001 to 54,000	190
54,001 to 56,000	200
56,001 to 58,000	210
58,001 to 60,000	215
60,001 to 62,000	220
62,001 to 64,000	230
64,001 to 66,000	240
66,001 to 68,000	245
68,001 to 70,000	250
70,001 to 72,000	260
72,001 to 74,000	265
74,001 to 76,000	275
76,001 to 78,000	280
78,001 to 80,000	290
80,001 to 82,000	295
82,001 to 84,000	305
84,001 to 86,000	310
86,001 to 88,000	320
88,001 to 90,000	325
90,001 to 92,000	335
92,001 to 94,000	340
94,001 to 96,000	350
96,001 to 98,000	355
98,001 to 100,000	365
100,001 to 102,000	370
102,001 to 104,000	380
104,001 to 105,500	385

(24) The registration fee for school vehicles registered under ORS 805.050 is \$7.50. [1983 c.338 §226; 1985 c.16 §85; 1985 c.177 §2; 1985 c.189 §2; 1985 c.245 §2; 1985 c.253 §4; 1985 c.401 §6; 1985 c.547 §13; 1987 c.6 §2; 1987 c.25 §3; 1987 c.440 §3; 1987 c.750 §7; 1989 c.43 §23; 1989 c.723 §§8, 8a; 1989 c.864 §7; 1989 c.865

§§7, 7a, 7b, 7c, 7d, 7e, 7f; 1989 c.992 §§11, 11a, 11b, 11c; 1991 c.284 §17; 1991 c.497 §13; 1991 c.880 §10]

**803.425 Vehicle length for fee determination.** The following are the measurement points of the described vehicles for the purposes of determining registration fees under ORS 803.420:

(1) Special use trailers and travel trailers are measured from the foremost point of the trailer hitch to the rear extremity of the trailer body not including the spare tire, but including all ordinary equipment or appliances appropriate to the type of body such as stakes, curtains, hooks, skids, tailboard, chains, sides and roof.

(2) Campers are measured by overall length from the extreme front to the extreme rear.

(3) Motor homes are measured by overall length from front to rear extremities.

(4) Tent trailers are measured by overall length when folded for travel. [1983 c.338 §229; 1985 c.16 §86]

**803.430 Registration weight for fee determination; methods of establishing; requirement.** (1) Registration weight is established for the following purposes:

(a) The registration weight is the weight used in the certificate of weight under ORS 803.435 to determine the registration fees under ORS 803.420 for vehicles required to establish registration weight under this section.

(b) A vehicle that is required to establish registration weight by this section is in violation of ORS 803.315 if the vehicle is operated on a highway of this state at a weight in excess of the registration weight except when carrying a load:

(A) Under the provisions of ORS 376.305 to 376.390;

(B) Of over 105,500 pounds combined weight under a variance permit issued under ORS 818.200;

(C) Under a registration weight trip permit issued under ORS 803.600; or

(D) Consisting of towed motor vehicles required to be registered under the vehicle code.

(2) Registration weight is established at the time of registration and whenever the vehicle has been altered or reconstructed by furnishing a certificate of weight described under ORS 803.435 that contains a written declaration of the maximum combined weight at which the vehicle will be operated on the highways of this state except when carrying loads described under paragraph (b) of subsection (1) of this section. The maximum registration weight for any vehicle required

to establish a registration weight under this section is 105,500 pounds. Vehicles operating at weights above 105,500 pounds will operate under a variance permit issued under ORS 818.200.

(3) Except as provided in subsection (4) of this section, the following vehicles are required to establish a registration weight under this section:

(a) Any motor truck that will be operated on the highways at a combined weight of more than 8,000 pounds not including the weight of any camper or trailing vehicle described in subsection (5) of this section.

(b) Any truck tractor that will be operated on the highways at a combined weight of more than 8,000 pounds not including the weight of any camper or trailing vehicle described in subsection (5) of this section.

(c) An armored car, wrecker, tow vehicle, hearse or ambulance.

(d) Any other motor vehicle that will be operated on the highways at a combined weight of more than 8,000 pounds not including the weight of any camper or trailing vehicle as described in subsection (5) of this section.

(e) A self-propelled mobile crane.

(f) Any motor vehicle registered as a farm vehicle under ORS 805.300.

(4) A vehicle that is being registered under a specific provision of the vehicle code where fees are not based on weight or where registration weight is specifically not required is not required to establish registration weight under this section.

(5) The weight of a camper or the following trailing vehicles shall not be included in the registration weight:

(a) Trailers with a loaded weight of 8,000 pounds or less.

(b) Special use trailers, travel trailers, mobile homes and fixed load vehicles.

(c) Towed motor vehicles. [1983 c.338 §230; 1985 c.16 §87; 1985 c.71 §3; 1985 c.172 §6; 1989 c.723 §9; 1991 c.284 §18]

**803.435 Certificate of weight for fee determination; contents.** A certificate of weight required for purposes of complying with ORS 803.450 and for purposes of determining vehicle registration fees under ORS 803.420 shall contain the following:

(1) For vehicles required to establish a registration weight under ORS 803.430, the certificate shall contain the registration weight.

(2) For buses, the certificate shall contain the unloaded weight of the vehicle plus the unloaded weight of any bus trailer to be used in combination with the vehicle. The

certificate shall also indicate the number of persons, including the driver, to be carried in the vehicle, plus the number of persons to be carried on any bus trailer to be used in combination with the vehicle. For purposes of determining the fee for registration of the vehicle under ORS 803.420, the division shall determine the weight of the vehicle by adding the unloaded weight of the vehicle, plus the unloaded weight of any bus trailer to be used in combination with the vehicle, to a weight determined by multiplying the maximum seating capacity of the vehicle plus the maximum seating capacity of any bus trailer to be used in combination with the vehicle, including the driver's seat but excluding emergency seats, times 170 pounds, if the vehicle has a separate compartment for transporting baggage or express, or 150 pounds, if the vehicle has no separate compartment for transporting baggage or express. If the vehicle has a seating capacity that is not arranged for separate or individual seating, 18 lineal inches shall be deemed the equivalent of a passenger seat.

(3) For fixed load vehicles, the certificate shall contain the weight of the vehicle including the cab, chassis, frame and all appurtenances necessary for making the vehicle self-propelled including front bumpers, fenders, windshield, tire carrier and spare wheel, and including the fixed or permanent load of the vehicle but excluding the spare tire.

(4) For all vehicles not otherwise provided for by this section and for which a certificate is prepared or required, the certificate shall contain the registration weight of the vehicle. [1983 c.338 §231; 1985 c.16 §88; 1985 c.189 §3; 1989 c.723 §10; 1989 c.992 §12c]

**803.440 Failure to submit certificate of weight; penalty.** (1) A person commits the offense of failure to submit a certificate of weight if the person does not submit a certificate of weight for a vehicle described in this subsection when the person applies for registration of the vehicle or has the vehicle registered in the person's name and the vehicle has been altered or reconstructed. This section applies to the following vehicles:

(a) Any vehicle required to establish registration weight under ORS 803.430.

(b) Any commercial bus.

(c) Any vehicle registered as a farm vehicle under ORS 805.300.

(d) Any vehicle registered under the proportional registration provisions of ORS 768.007 or 768.009.

(2) The offense described in this section, failure to submit a certificate of weight, is a Class D traffic infraction. [1983 c.338 §232; 1989 c.43 §24; 1989 c.723 §11]

**803.445 Authority of counties and districts to impose registration fees; maximum amount.** (1) The governing body of a county may impose registration fees for vehicles as provided in ORS 801.041.

(2) The governing body of a district may impose registration fees for vehicles as provided in ORS 801.042.

(3) The division shall provide by rule for the administration of laws authorizing county and district registration fees and for the collection of those fees.

(4) Any registration fee imposed under this section shall be imposed in a manner consistent with ORS 803.420.

(5) No county or district may impose a vehicle registration fee that would by itself, or in combination with any other vehicle registration fee imposed under this section, exceed the amount of the fee imposed under ORS 803.420 (1). The owner of any vehicle subject to multiple fees under this section shall be allowed a credit or credits with respect to one or more of such fees so that the total of such fees does not exceed the amount of the fee imposed under ORS 803.420 (1). [1989 c.864 §2]

#### (Renewal)

**803.450 Notice of pending expiration; exceptions; effect of failure to receive; records.** (1) The division or the Public Utility Commission shall notify the registered owner of a vehicle registered by this state of the approaching expiration of the vehicle's registration. The notice required by this subsection shall comply with all of the following:

(a) The notice shall be mailed to the owner of the vehicle at the address shown on the vehicle registration file.

(b) The notice shall be mailed a reasonable time before expiration date of the registration.

(2) The division or the commission shall not be required to notify the registered owner of an approaching expiration if the division or the commission has reason to believe:

(a) The vehicle has been sold, wrecked or stolen;

(b) The registered owner is ineligible to renew the registration;

(c) There is a dispute with regard to the title of the vehicle; or

(d) The registered owner failed to notify the division of a change of address as required by ORS 803.220.

(3) Failure to receive notice of expiration from the division or the commission is not a

defense to a charge of driving with an expired vehicle registration. However, the court may dismiss the charge if the owner registers the vehicle before the scheduled court appearance.

(4) Division records concerning notice under this section are subject to ORS 802.210. [1983 c.338 §233; 1985 c.253 §5; 1989 c.43 §25]

**803.455 Failure to renew; fee; penalty.**

(1) A person commits the offense of failure to renew vehicle registration if the registration period for a vehicle registered in the person's name expires and the person does not pay the fee required for renewal of registration.

(2) This section does not apply if the vehicle is no longer required or qualified to be registered in this state when the registration period expires.

(3) The fee required to be paid for renewal of registration under this section is the same fee that is required for registration of the vehicle under ORS 803.420.

(4) The offense described in this section, failure to renew vehicle registration, is a Class D traffic infraction. [1983 c.338 §234; 1985 c.16 §89; 1985 c.305 §11]

**803.460 Certification of compliance with financial responsibility requirements.** The division shall not renew the registration of a motor vehicle unless the owner of the vehicle certifies compliance with financial responsibility requirements for the vehicle and certifies that the owner will remain in compliance with the requirements for the term of the registration or until the vehicle is sold. This section does not apply if a renewal of registration is accompanied by an application for transfer of title arising from the sale of the vehicle. Exemptions from this section are established in ORS 806.020. The form of certification required for this section shall be as required under ORS 806.180. [1983 c.338 §235; 1985 c.714 §7]

**803.465 Proof of compliance with pollution control equipment requirements.** The division shall not issue renewal of registration unless the division receives proof of compliance with pollution control equipment requirements under ORS 815.310. This section is not applicable to vehicles exempt from the requirements of this section by ORS 815.300 or to vehicles registered under the provisions of ORS 805.045 or 805.060. [1983 c.338 §236; 1985 c.16 §90; 1987 c.440 §4; 1989 c.22 §2]

803.470 [1983 c.338 §237; 1985 c.174 §3; repealed by 1991 c.459 §438L]

**803.473 Effect of unpaid registration fees on issuance of duplicate or replacement certificate of title.** On and after September 29, 1991, the Motor Vehicles Division

shall not refuse to renew registration, transfer the certificate of title or issue a duplicate or replacement certificate of title for a camper or travel trailer solely on the grounds that prior to September 29, 1991, the owner of the camper or travel trailer owed unpaid registration fees to the division. [1991 c.459 §438m]

**Note:** 803.473 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 803 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**803.475 Odometer reading required.**

The division shall not issue renewal of registration unless the division receives with the application for renewal of registration a completed odometer disclosure in a form determined by the division by rule pursuant to ORS 803.120, if a disclosure is required. The division shall retain the odometer information submitted under this section but need not print it on certificates of title or registration cards. [1985 c.251 §22; 1991 c.873 §16]

**(Cards)**

**803.500 Registration card; contents; signature.** (1) The division shall furnish for each vehicle and camper registered by the division, a registration card that shows all of the following information:

- (a) The name of the registered owner.
- (b) The owner's actual residence or business address and, if it differs from the residence or business address, the post-office address.
- (c) The name of the county in which the owner resides or conducts business.
- (d) The make.
- (e) The year model.
- (f) The vehicle identification number as denoted by the certificate of title issued for the vehicle or camper.
- (g) The number of the certificate of title issued for the vehicle or camper.
- (h) The registration or license number and date of issuance of the registration card.
- (i) The registration weight, if the vehicle is required to establish a registration weight. If the vehicle is not required to establish a registration weight, but is required to file a certificate of weight described under ORS 803.440, upon registration, the weight shown on the certificate of weight shall be shown on the registration card.
- (j) The mileage of the vehicle as reported to the division at the time the most recent title transfer was reported to the division, or the mileage reported to the division at the time the vehicle was initially titled in Oregon, whichever occurred last.



(k) The word "totaled" if the vehicle has been reported to the division as a totaled vehicle under the provisions of ORS 819.012 or 819.014, unless the reason for the report was theft and the vehicle has been recovered.

(L) Any other information required by the division.

(2) A registration card shall contain a blank space for the signature of the registered owner. A registration card issued by the division for a motor vehicle is not valid until the person registering the vehicle signs and dates a statement on the registration card certifying that, at the time of completion of registration, the vehicle for which the card is issued is in compliance with financial responsibility requirements. A person who falsely certifies compliance with financial responsibility requirements on the card is subject to the penalties under ORS 806.050. [1983 c.338 §254; 1985 c.251 §25; 1985 c.253 §6; 1985 c.668 §11; 1989 c.43 §26; 1991 c.820 §10; 1991 c.873 §16a]

#### 803.505 Failure to carry card; penalty.

(1) The owner of a vehicle that is registered in this state commits the offense of failure to carry a registration card if, immediately upon receipt, the owner does not sign the card with ink in the blank provided on the card for that purpose and place and keep the card in or on the vehicle in a manner that makes it readily available for police inspection upon request.

(2) The following apply to the offense described in this section:

(a) The owner of a commercial vehicle is not in violation of this section if a photocopy of the card is used.

(b) In the case of a camper, the owner shall keep the registration card in the transporting vehicle.

(c) In the case of a snowmobile or Class I or Class III all-terrain vehicle, the registration card or certificate shall be in a place that is readily accessible whether or not the snowmobile or Class I or Class III all-terrain vehicle is in operation.

(3) The offense described in this section, failure to carry a registration card, is a Class C traffic infraction. [1983 c.338 §255; 1987 c.217 §3; 1989 c.991 §27]

**803.510 Duplicate or replacement; fee.** The division may issue a duplicate or replacement registration card when:

(1) The division receives an application indicating the loss, mutilation or destruction of a registration card; and

(2) The fee for issuance of a duplicate or replacement card established under ORS 803.575 is paid to the division. [1983 c.338 §256; 1985 c.174 §4; 1985 c.253 §7a]

#### (Plates)

Note: Sections 1 to 3, chapter 572, Oregon Laws 1987, provide:

**Sec. 1. Plate contest.** The Oregon Transportation Commission shall conduct a contest for the design of new vehicle registration plates. The contest shall be conducted in the following manner:

(1) The commission shall conduct a statewide publicity campaign to inform people of the registration plate design contest.

(2) Designs submitted for the contest must:

(a) Contain the word "Oregon" and depict an aspect of Oregon, either graphically or in writing or both;

(b) Fit on a registration plate that is the same size as those currently in use; and

(c) Use no more than four colors.

(3) The commission shall choose a panel of seven judges for the contest. Of the members of the panel, two shall be artists or graphic artists and two shall be traffic officers employed by a police agency.

(4) The judges shall choose from among the entries five designs that they shall then forward to the commission. The commission shall choose the winning design from among the five forwarded to it by the panel of judges.

(5) The contest shall be concluded and the winning design chosen by January 30, 1988. The commission shall forward the winning design to the Motor Vehicles Division. [1987 c.572 §1]

**Sec. 2.** (1) As soon after receiving the winning design for registration plates as is feasible, the Motor Vehicles Division shall arrange for production of the plates. The division shall make rules for the orderly and efficient transition to use of the new series of plates. Such rules shall include, but need not be limited to, provisions specifying that:

(a) On and after July 1, 1988, upon initial registration of a vehicle described in ORS 803.420 (1) that is not a vehicle for which the registration applicant has applied for special plates and is not a vehicle for which the Motor Vehicles Division routinely issues special plates, plates from the series produced as provided in this Act shall be issued.

(b) On and after July 1, 1988, if the owner of a vehicle applies to replace registration plates as provided in ORS 803.530 because the plates have been illegally altered or have been lost, destroyed or mutilated, if the applicant has not applied for special plates and if the vehicle is not one for which the Motor Vehicles Division routinely issues special plates, the division shall issue plates from the series produced as provided in this Act.

(c) On and after July 1, 1988, the division may issue registration plates from the series produced as provided in this Act to a person who applies for the plates and submits the fee required by this section. Plates may be issued under this paragraph for vehicles that are not required by paragraph (a) or (b) of this subsection to have plates from the series produced as provided in this Act.

(d) The division may issue registration plates from the series produced as provided in this Act for vehicles that would otherwise receive special plates if the division determines that the design of the plates produced under this Act will not interfere with any identifying information on the special plates.

(2) In addition to any other fee authorized by law, if a person applies for plates as authorized by paragraph (c) of subsection (1) of this section, the division shall charge the following fee:



(a) If the person applies for the plates at the same time that the person renews the registration of the vehicle that will carry the plates, \$1.50.

(b) In all other circumstances, \$11. [1987 c.572 §2]

**Sec. 3.** The provisions of ORS 803.535 apply to all registration plates manufactured or contracted for after the effective date of those provisions and before the conclusion of the contest referred to in section 1 of this Act. Except as otherwise provided in this section, plates manufactured as a result of a contract entered into after the contest referred to in section 1 of this Act, that are manufactured to the specifications of the winning design in the contest, shall comply with the provisions of section 5 of this Act rather than with the provisions of ORS 803.535. Plates for vehicles that are not required to display plates manufactured to the specifications of the winning design in the contest may comply with either the provisions of ORS 803.535 or the provisions of section 5 of this Act, as determined by the division. [1987 c.572 §3]

**803.520 Issuance; fees.** The division shall issue and deliver to the owner registration plates according to the following:

(1) Registration plates shall be issued upon filing of application for registration and payment of the appropriate registration and registration plate fees unless the division has just cause for refusing to register a vehicle or unless otherwise provided in this section.

(2) If an application for title or registration is for a vehicle that is subject to the provisions of ORS 803.210, the division may issue a permit described under ORS 803.615 while the division is determining all facts relative to the applicant's right to receive a certificate of title and shall issue registration plates along with the certificate of title.

(3) Before issuance of registration plates, the division must receive the manufacturing and reflectorizing fee for the registration plates. If the registration plate is one of the special plates described under ORS 805.200, the fees for the registration plate issuance are as described in ORS 805.250.

(4) Except as described in ORS 805.200 and 803.537, registration plates issued shall be as described in ORS 803.535.

(5) The division shall issue the number of plates appropriate under ORS 803.525 and any stickers provided under ORS 803.555. [1983 c.338 §257; 1985 c.16 §99; 1987 c.146 §8; 1987 c.572 §6]

**803.525 Number of plates issued.** The division shall issue two registration plates for every vehicle that is registered in this state except as otherwise provided in this section. Upon renewal or when otherwise provided under ORS 803.555, the division may issue stickers in lieu of or in addition to registration plates. The following shall be issued plates as described:

(1) Only one registration plate shall be issued for a moped, motorcycle or any trailer registered by this state.

(2) Only one plate shall be issued for a camper that is registered. Stickers may be issued in lieu of a plate as provided in ORS 803.555.

(3) Mobile homes are as provided in ORS 820.500. [1983 c.338 §258; 1985 c.668 §12; 1989 c.43 §27]

**Note:** The amendments to 803.525 by section 28, chapter 407, Oregon Laws 1991, become operative January 1, 1993. See section 39, chapter 407, Oregon Laws 1991. The text that is operative on and after January 1, 1993, is set forth for the user's convenience.

**803.525.** The division shall issue two registration plates for every vehicle that is registered by the division except as otherwise provided in this section. Upon renewal or when otherwise provided under ORS 803.555, the division may issue stickers in lieu of or in addition to registration plates. The following shall be issued plates as described:

(1) Only one registration plate shall be issued for a moped, motorcycle or any trailer registered by the division.

(2) Only one plate shall be issued for a camper that is registered. Stickers may be issued in lieu of a plate as provided in ORS 803.555.

(3) Mobile homes are as provided in ORS 820.500.

**803.530 Period of validity; transfer; replacement.** Registration plates assigned to a vehicle by the division shall remain with the vehicle to which the plates are assigned and are valid only during the registration period for which the plates are issued except as provided in the following:

(1) The division may select and assign permanent registration plates that remain with a vehicle as long as the vehicle is required to be registered in this state. If the division selects and issues permanent registration plates under this subsection, the plates will be designed for the use of stickers described under ORS 803.555 that remain with the vehicle only for the registration period for which the stickers are issued.

(2) The division may allow registration plates to be transferred to another vehicle upon receipt of an application therefor together with payment of a plate transfer fee under ORS 803.575 in addition to the regular registration fee. The division shall refuse to transfer registration plates under this subsection if the division determines that the plates are not from a current issue of registration plates, are not customized registration plates described under ORS 805.240 or are so old, damaged, mutilated or otherwise rendered illegible as to be not useful for purposes of identification.

(3) The owner of a registered vehicle to which a plate is assigned may replace a registration plate that is illegally altered or that is lost, destroyed or mutilated in a manner that renders illegible any identification on the plate. The following apply to this subsection:

(a) To replace a plate under this subsection, the owner must apply to the division for replacement of the damaged or lost plate upon forms prepared by the division and pay the replacement plate fee established under ORS 803.575.

(b) The application must state the facts of the damage, destruction or loss of the plate.

(c) The division, in lieu of replacement, may issue duplicate plates for the same fee as charged for replacements.

(d) The plates issued under this subsection are valid only for the period of the plates replaced.

(e) Provision for replacement of registration stickers is made under ORS 803.555.

(4) This section does not apply to special interest registration plates approved under ORS 805.210. [1983 c.338 §259; 1985 c.16 §100; 1985 c.174 §5; 1985 c.243 §3; 1985 c.570 §3; 1987 c.158 §163]

**803.535 Size, form, material, color, design, contents.** Subject to ORS 805.200 and the following, the division shall select registration plates it issues:

(1) Registration plates shall be in the size, form and arrangement and made of materials determined by the division subject to the following:

(a) The plates shall have a marked contrast between the color of the plates and that of the numerals, letters or characters thereon.

(b) If registration plates are issued, means shall be provided for identifying the vehicle from the front and rear by means of characters or numerals.

(c) All plates shall be made with a reflective material, so as to be a fully reflectorized safety plate. The reflectorized material shall be of such a nature as to provide effective dependable brightness in the promotion of traffic safety during the service period of the plate issued.

(d) All plates shall contain the distinctive number or characters assigned to the vehicle and the word "Oregon."

(e) Except as provided by ORS 805.200, registration plates shall bear the distinctive identification assigned to the vehicle by the division upon registration of the vehicle.

(f) When a pair of registration plates is issued, each plate shall bear the same identification as the other plate of the pair.

(2) The division may provide for designation of the registration period for which the registration is issued on the plate by means of stickers described under ORS 803.555 or any other method the division determines appropriate.

(3) The division may provide plates that may be used on a vehicle for successive registration periods when validated by one or more stickers described under ORS 803.555. [1983 c.338 §260; 1985 c.16 §101]

**803.537 Design, size and material of plates chosen from contest entries; stickers.** (1) Subject to ORS 805.200 and this section, the division shall select registration plates it issues.

(2) Registration plates shall be in the size and made of materials determined by the division.

(3) Except as otherwise provided in section 3, chapter 572, Oregon Laws 1987, and ORS 803.538, the design of the registration plates, including form, arrangement and color, shall be that chosen by the commission from entries in the contest held pursuant to section 1, chapter 572, Oregon Laws 1987.

(4) Except as provided by ORS 805.200, registration plates shall bear the distinctive identification assigned to the vehicle by the division upon registration of the vehicle.

(5) When a pair of registration plates is issued, each plate shall bear the same identification as the other plate of the pair.

(6) The division may provide for designation of the registration period for which the registration is issued on the plate by means of stickers described under ORS 803.555 or any other method the division determines appropriate.

(7) The division may provide plates that may be used on a vehicle for successive registration periods when validated by one or more stickers described under ORS 803.555. [1987 c.572 §5; 1989 c.742 §5]

**803.538 Color of sky in graphic plates.** Registration plates chosen by the commission pursuant to section 1, chapter 572, Oregon Laws 1987, shall have the colors chosen by the commission except that the sky shall be blue. [1989 c.742 §4]

**803.540 Failure to display plates; exceptions; penalty.** (1) A person commits the offense of failure to display registration plates if the person operates, on the highways of this state, any vehicle or camper that has been assigned registration plates by this state and the registration plates assigned to the vehicle or camper are displayed in a manner that violates any of the following:

(a) The plate must be displayed on the rear of the vehicle, if only one plate is required.

(b) Plates must be displayed on the front and rear of the vehicle if two plates are required.

(c) The plates must be in plain view and so as to be read easily by the public.

(d) The plate must not be any plate that does not entitle the holder thereof to operate the vehicle upon the highways.

(2) A person is not in violation of this section if the person is operating a vehicle or camper under and in accordance with the requirements for any of the following:

(a) A temporary application permit issued under ORS 803.615.

(b) An agent temporary registration permit issued under ORS 803.625.

(c) Provisions established under ORS 768.005, 768.007 or 768.009 for the display of registration plates or other evidence of registration on vehicles that are proportionally registered under ORS 768.007 or 768.009.

(3) The offense described in this section, failure to display registration plates, is a Class B traffic infraction. [1983 c.338 §261; 1985 c.668 §13; 1989 c.43 §28]

**803.545 Failure to display out-of-state plates.** (1) A person commits the offense of failure to display plates on an out-of-state vehicle if the person operates a vehicle that is registered in any jurisdiction other than this state and the person does not display the registration plates assigned to and furnished for the vehicle by the registering jurisdiction:

(a) For the current registration period in that jurisdiction; and

(b) Substantially as provided under ORS 803.540 for vehicles that are registered by this state.

(2) This section does not allow the display of out-of-state registration plates on a vehicle when the vehicle is required to be registered in this state by ORS 803.325.

(3) The offense described in this section, failure to display plates on an out-of-state vehicle, is a Class C traffic infraction. [1983 c.338 §262; 1985 c.16 §102; 1985 c.401 §8]

**803.550 Illegal alteration or display of plates; prohibited; described; exceptions; penalty.** (1) A person commits the offense of illegal alteration or display of a registration plate if the person knowingly does any of the following:

(a) Illegally alters a registration plate in a manner described in subsection (2) of this section.

(b) Operates any vehicle that is displaying a registration plate that is illegally altered in a manner described in subsection (2) of this section.

(c) Owns and causes or permits a vehicle to display a registration plate that is illegally

altered in a manner described in subsection (2) of this section.

(2) A registration plate is illegally altered for purposes of this section if the plate has been altered, modified, covered or obscured including, but not limited to the following:

(a) Any change of the color, configuration, numbers, letters or material of the plate.

(b) Any material or covering, other than a frame or plate holder, placed on, over or in front of the plate that alters the appearance of the plate.

(c) Any frame or plate holder that obscures the numbers, letters or registration stickers, so as to render them unreadable.

(3) This section does not apply to the following:

(a) Any placement of registration stickers described under ORS 803.555.

(b) Any public official who displays or performs any alteration of a registration plate in the course of official duties.

(c) Any special interest registration plate approved under ORS 805.210.

(4) The offense described in this section, illegal alteration or display of a registration plate, is a Class B traffic infraction. [1985 c.243 §2]

#### (Stickers)

**803.555 Issuance; contents; number; size, color and design; replacement.** (1) The following apply to the use of registration stickers:

(a) Upon renewal of registration, the division may issue registration stickers in lieu of new plates. The stickers may be for use with permanent registration plates described under ORS 803.530. Stickers described in this paragraph shall bear the last two numbers of the last year of the registration period for which issued.

(b) The division shall issue one registration sticker with the registration plate issued for a travel trailer and upon each renewal of registration of the travel trailer. The registration sticker issued under this paragraph shall be placed upon the plate.

(c) The division shall issue a registration sticker with the registration plate issued for a camper or may issue a registration sticker in lieu of the registration plate for the camper. The sticker must be placed on the rear of the camper in a place designated by the division.

(2) If the division uses registration stickers as a means for designation of the registration period of a vehicle, one or more stickers may be used to validate registration

plates for successive registration periods. If more than one sticker is used, one sticker shall bear the last two numbers of the last year of the registration period for which issued and another sticker shall bear information identifying the month of expiration. If only one sticker is used, the sticker shall bear the last two numbers of the last year of the registration period for which issued and information identifying the month of expiration. A sticker does not validate a registration plate for any registration period other than as indicated on the sticker.

(3) Registration stickers shall be of a size, color and design determined by the division and shall be displayed on registration plates in the manner determined by the division. A person who does not display the stickers as required by the division is subject to penalty under ORS 803.560.

(4) The owner of a registered vehicle to which registration stickers are assigned may replace a registration sticker that is lost, destroyed or mutilated in a manner that renders illegible any identification of the sticker. To replace a registration sticker under this subsection, the owner must apply to the division for a replacement of the damaged or lost sticker upon forms prepared by the division and pay the replacement sticker fee established under ORS 803.575. The application must state the facts of the damage, destruction or loss of the stickers. The stickers issued under this subsection are valid only for the period of the stickers replaced. Provision for replacement of registration plates is made under ORS 803.530. [1983 c.338 §267; 1985 c.16 §107; 1985 c.174 §6; 1989 c.76 §3]

**803.560 Improper display; penalty.** (1) A person commits the offense of improper display of validating stickers if the person owns or drives a vehicle on which the display of registration stickers described under ORS 803.555 provides proof of valid registration and:

(a) The stickers are not displayed in a manner required by the division under ORS 803.555; or

(b) The stickers are displayed on the vehicle after the registration period shown on the stickers.

(2) The offense described in this section, improper display of validating stickers, is a Class D traffic infraction. [1983 c.338 §268]

#### (Fees)

**803.570 Plate manufacturing fee.** Except as otherwise specifically provided by law, the division shall collect the fee described by this section each time the division issues a registration plate upon the registra-

tion of a vehicle or at other times when a registration plate is issued by the division. The following all apply to the fee established by this section:

(1) The fee shall be in addition to any other fee collected upon issuance of a registration plate.

(2) The fee for each registration plate issued and for each set of two plates issued shall be determined by the division and shall be established by the division by rule.

(3) The division shall establish the fee for a plate or a pair of plates under this section by determining the cost to manufacture, including but not limited to the cost to reflectorize, and rounding to the nearest higher half-dollar. If the difference between the cost to manufacture a single plate and the cost to manufacture a pair of plates would result in a difference in the fee established under this section, the division shall establish separate fees for issuance of single registration plates and pairs of registration plates. [1983 c.338 §269; 1985 c.16 §108]

#### **803.575 Fees for cards, plates and stickers; issuance; replacement; transfer.**

(1) The fee for issuance of a duplicate or replacement registration card under ORS 803.510 is \$5.

(2) The fee for issuance of a new registration card under ORS 803.220, indicating a change of address, is \$5.

(3) The fee for issuance of a replacement or duplicate registration plate under ORS 803.530 is the fee established under ORS 803.570, together with a fee of \$11.

(4) The fee for transfer of registration plate under ORS 803.530 or 803.590 is \$6.

(5) The fee for issuance of replacement registration stickers under ORS 803.555, is \$11.

(6) The fee for issuance of both replacement or duplicate registration plates and replacement registration stickers, when issued at the same time, is \$11, in addition to the fee established under ORS 803.570.

(7) The fee paid under subsections (3), (5) and (6) of this section includes the cost of any duplicate or replacement registration card issued. [1983 c.338 §271; 1985 c.16 §110; 1985 c.174 §8; 1985 c.736 §2; 1987 c.750 §8]

**803.577 Fee for identification device for proportionally registered vehicle.** Except as otherwise specifically provided by law, the Motor Vehicles Division shall collect the fee described by this section each time the division issues an identification device for the proportional registration of a vehicle. The following apply to the fee established by this section:

(1) The fee shall be in addition to any other fee collected upon issuance of a registration plate.

(2) The fee for each device issued shall be determined by the division and shall be established by the division by rule.

(3) The division shall establish the fees under this section based on cost. [1991 c.284 §26]

803.580 [1983 c.338 §220; repealed by 1987 c.750 §12]

**803.585 Registration fees as substitute for taxes on vehicles; exemptions.** (1) Except as otherwise provided in this section, ORS 801.041, 801.042 or 820.500, the registration fees under the vehicle code are in lieu of all other taxes and licenses, except municipal license fees under regulatory ordinances, to which such vehicles or the owners thereof may be subject. Fixed load vehicles are not exempt from ad valorem taxation by this section.

(2) Travel trailers subject to registration and titling under the vehicle code are not subject to ad valorem taxation except as provided in ORS 308.880. [1983 c.338 §221; 1989 c.864 §8; 1991 c.459 §438h]

#### (Miscellaneous)

**803.590 Disposition of plates and refund of fees when certain vehicles are destroyed or withdrawn from service.** (1) The owner of a vehicle described in this subsection shall be permitted to transfer the registration plates from the vehicle to a like vehicle to be similarly used if the vehicle is destroyed or permanently withdrawn from service within this state and if the registration fee for the vehicle was more than \$10. To make a transfer of registration under this section, the owner of the vehicle shall pay the division a registration transfer fee established under ORS 803.575, file a written statement indicating the withdrawal or destruction with the division and surrender the registration card for the vehicle. The division shall issue a registration card without payment of further fee. If the weight on the certificate of weight of the vehicle receiving the transferred registration exceeds that of the vehicle destroyed or withdrawn, the owner must pay registration fees on the increased weight. This subsection applies to the following vehicles:

(a) Motor trucks with a registration weight of more than 8,000 pounds.

(b) Truck tractors with a registration weight of more than 8,000 pounds.

(c) Commercial buses.

(2) If a vehicle described under this subsection is destroyed accidentally so as to be incapable of further operation, the person in

whose name the vehicle is registered is entitled to a refund of that portion of the fee applicable to the then unexpired portion of the registration period. The certificate of title, registration card and registration plates must be surrendered to the division for cancellation when application for refund is made under this section. Claims for refunds under this section shall be filed and paid as provided for refunds under ORS 802.110. To qualify for a refund under this section, a registration fee in excess of \$10 must have been paid for the vehicle, the vehicle must have been registered in this state and the vehicle must be one of the following:

(a) A motor truck with a registration weight of more than 8,000 pounds.

(b) A truck tractor with a registration weight of more than 8,000 pounds.

(c) A mobile home, travel trailer or camper. [1983 c.338 §219; 1985 c.253 §2; 1987 c.750 §9; 1989 c.43 §29; 1989 c.103 §1; 1989 c.723 §12]

#### VEHICLE PERMITS

**803.600 Trip permits; authority granted; types; records; when not required.** A trip permit grants authority to temporarily operate a vehicle on the highways of this state under circumstances where the operation would not otherwise be legal because the vehicle is not registered by this state or because provisions relating to the vehicle's registration do not allow the operation. The division shall provide for the issuance of trip permits in a manner consistent with this section. All of the following apply to permits issued under this section:

(1) The division shall issue the following types of trip permit to authorize the described type of operation and shall not issue trip permits for any other purpose:

(a) A heavy motor vehicle trip permit may be issued for a motor vehicle with a combined weight of more than 8,000 pounds or that is a fixed load motor vehicle, and that is not registered in this state. A permit described in this paragraph is valid for 10 consecutive days.

(b) A heavy trailer trip permit may be issued for a trailer that will be operated on the highways at a loaded weight of more than 8,000 pounds or that is a fixed load vehicle, and that is not registered to allow operation of the vehicle in this state. A permit described in this paragraph is valid for 10 consecutive days. This subsection does not apply to travel trailers, mobile homes or special use trailers.

(c) A light vehicle trip permit may be issued for a vehicle with a combined weight of less than 8,001 pounds that is not a fixed load vehicle and that is not registered to al-

low operation of the vehicle in this state. Permits described in this paragraph may be issued for periods of 10 days, 30 days, 60 days, 90 days or 120 days but no person may receive the authority granted under a light vehicle trip permit for more than 120 days in any 12-month period for any given vehicle. A person who applies for a light vehicle trip permit must certify that the person has not been granted permits that together authorize the person to exceed the maximum number of days of operation allowed by this paragraph and that the permit applied for would not, in conjunction with other permits received, authorize the person to exceed the maximum number of days of operation allowed by this paragraph.

(d) A registration weight trip permit may be issued for a vehicle that is registered in this state, to allow the vehicle to be operated with a greater combined weight than is permitted by the registration weight established for the vehicle or at a greater combined weight than is otherwise permitted under the registration for the vehicle if the vehicle is not required to establish a registration weight. A permit issued under this paragraph does not authorize movements or operations for which a variance permit is required under ORS 818.200. A permit issued under this paragraph shall show the maximum registration weight allowed for operation under the permit. A permit issued under this paragraph is valid for 10 consecutive days.

(e) A registered vehicle trip permit may be issued for a vehicle that is registered in this state to allow the vehicle to operate under conditions or in ways not permitted by the terms of the vehicle registration. The division shall determine by rule the kinds of operation for which permits may be issued under this paragraph. A permit issued under this paragraph is valid for 10 consecutive days.

(f) A mobile home trip permit may be issued to allow movement of a mobile home. Except movements of mobile homes by vehicle transporters permitted under ORS 822.310, all movements of mobile homes on the highways of this state shall be by trip permit. The provisions under ORS 820.560 and 820.570 apply to trip permits for mobile homes in addition to the requirements under this section. A permit issued under this paragraph is valid during the movement of the mobile home specifically authorized by the permit.

(2) The following requirements for records are established concerning permits issued under this section:

(a) Any carrier regulated by the Public Utility Commission shall maintain records of

heavy motor vehicle and heavy trailer trip permits and registration weight trip permits issued to the carrier as required by the commission by rule.

(b) The division is not required to keep records concerning heavy motor vehicle and heavy trailer trip permits, but shall provide the Public Utility Commission with the information from each such permit issued.

(c) Requirements for the division to maintain records concerning trip permits other than heavy motor vehicle and heavy trailer trip permits are established under ORS 802.200.

(3) An owner or operator of a vehicle may obtain a trip permit. The fees for issuance of trip permits are as provided under ORS 803.645.

(4) The division shall make the trip permits available to all field offices and agents maintained by the division and may make arrangements for the issuance of the permits by designated individuals, firms or associations for the convenience of the motoring public.

(5) The division may also sell heavy motor vehicle, heavy trailer and registration weight trip permits in advance of issuance to contractors, transportation companies and other users for issuance to their own vehicles or vehicles under their control.

(6) The division shall adopt rules for the issuance, sale and control of all trip permits.

(7) Trip permits are not required for the operation of unregistered vehicles other than mobile homes where such operation is permitted as follows:

(a) By vehicle dealers as permitted under ORS 822.040.

(b) By vehicle transporters as permitted under ORS 822.310.

(c) By towing businesses as permitted under ORS 822.210.

(8) Trip permits are not required for the operation of unregistered vehicles where such operation is permitted under ORS 803.305.

(9) Unregistered vehicles that are operated without a trip permit are subject to the prohibitions and penalties for operation of unregistered vehicles under ORS 803.300 or 803.315, as appropriate. Mobile homes that are moved on the highways without a trip permit, where a trip permit is required, are subject to penalty as provided under ORS 820.570.

(10) A trip permit may be issued to a school vehicle registered under ORS 805.050 for use of the vehicle for purposes not permitted under ORS 805.050. [1983 c.338 §272; 1985



c.16 §111; 1985 c.313 §4; 1985 c.547 §16; 1989 c.723 §13; 1991 c.284 §19; 1991 c.360 §4

**Note:** The amendments to 803.600 by section 29, chapter 407, Oregon Laws 1991, become operative January 1, 1993. See section 39, chapter 407, Oregon Laws 1991. The text that is operative on and after January 1, 1993, is set forth for the user's convenience.

**803.600.** A trip permit grants authority to temporarily operate a vehicle on the highways of this state under circumstances where the operation would not otherwise be legal because the vehicle is not registered by this state or because provisions relating to the vehicle's registration do not allow the operation. The division shall provide for the issuance of trip permits in a manner consistent with this section. All of the following apply to permits issued under this section:

(1) The division shall issue the following types of trip permit to authorize the described type of operation and shall not issue trip permits for any other purpose:

(a) A heavy motor vehicle trip permit may be issued for a motor vehicle with a combined gross weight of more than 8,000 pounds or that is a fixed load vehicle, and that is not registered in this state. A permit described in this paragraph is valid for 10 consecutive days.

(b) A heavy trailer trip permit may be issued for trailers that will be operated on the highways at a loaded weight of more than 8,000 pounds or that is a fixed load vehicle, and that are not registered to allow operation of the vehicle in this state. A permit described in this paragraph is valid for 10 consecutive days. This subsection does not apply to travel trailers, mobile homes, special use trailers or any other trailer that does not register by weight.

(c) A light vehicle trip permit may be issued for a vehicle with a combined gross weight of less than 8,001 pounds that is not a fixed load vehicle and that is not registered in this state to allow operation of the vehicle in this state. Permits described in this paragraph may be issued for periods of 10 days, 30 days, 60 days, 90 days or 120 days but no person may receive the authority granted under a noncommercial vehicle trip permit for more than 120 days in any 12-month period for any given vehicle. A person who applies for a non-commercial permit must certify that the person has not been granted permits that together authorize the person to exceed the maximum number of days of operation allowed by this paragraph and that the permit applied for would not, in conjunction with other permits received, authorize the person to exceed the maximum number of days of operation allowed by this paragraph.

(d) A registration weight trip permit may be issued for a vehicle that is registered in this state to allow the vehicle to be operated with a greater combined gross weight than is permitted by the registration weight established for the vehicle or at a greater combined gross weight than is otherwise permitted under the registration for the vehicle if the vehicle is not required to establish a registration weight. A permit issued under this paragraph does not authorize movements or operations for which a variance permit is required under ORS 818.200. A permit issued under this paragraph shall show the maximum combined gross weight allowed for operation under the permit. A permit issued under this paragraph is valid for 10 consecutive days.

(e) A registered vehicle trip permit may be issued for a vehicle that is registered in this state to allow the vehicle to operate under conditions or in ways not permitted by the terms of the vehicle registration. The division shall determine by rule the kinds of operation for which permits may be issued under this paragraph. A permit issued under this paragraph is valid for 10 consecutive days.

(f) A mobile home trip permit may be issued to allow movement of a mobile home. Except movements of

mobile homes by vehicle transporters permitted under ORS 822.310, all movements of mobile homes on the highways of this state shall be by trip permit. The provisions under ORS 820.560 and 820.570 apply to trip permits for mobile homes in addition to the requirements under this section. A permit issued under this paragraph is valid during the movement of the mobile home specifically authorized by the permit.

(2) The following requirements for records are established concerning permits issued under this section:

(a) Any carrier regulated by the Public Utility Commission shall maintain records of heavy motor vehicle and heavy trailer trip permits and registration weight trip permits issued to the carrier as required by the commission by rule.

(b) The division is not required to keep records concerning heavy motor vehicle and heavy trailer trip permits, but shall provide the Public Utility Commission with the information from each such permit issued.

(c) Requirements for the division to maintain records concerning trip permits other than heavy motor vehicle and heavy trailer trip permits are established under ORS 802.200.

(3) An owner or operator of a vehicle may obtain a trip permit. The fees for issuance of trip permits are as provided under ORS 803.645.

(4) The division shall make the trip permits available to all field offices and agents maintained by the division and may make arrangements for the issuance of the permits by designated individuals, firms or associations for the convenience of the motoring public.

(5) The division may also sell heavy motor vehicle and heavy trailer trip permits in advance of issuance to contractors, transportation companies and other users for issuance to their own vehicles or vehicles under their control.

(6) The division shall adopt rules for the issuance, sale and control of all trip permits except those issued by the Public Utility Commission.

(7) Trip permits are not required for the operation of unregistered vehicles other than mobile homes where such operation is permitted as follows:

(a) By vehicle dealers as permitted under ORS 822.040.

(b) By vehicle transporters as permitted under ORS 822.310.

(c) By towing businesses as permitted under ORS 822.210.

(8) Trip permits are not required for the operation of unregistered vehicles where such operation is permitted under ORS 803.305.

(9) Unregistered vehicles that are operated without a trip permit are subject to the prohibitions and penalties for operation of unregistered vehicles under ORS 803.300 or 803.315, as appropriate. Mobile homes that are moved on the highways without a trip permit, where a trip permit is required, are subject to penalty as provided under ORS 820.570.

(10) A trip permit may be issued to a school vehicle registered under ORS 805.050 for use of the vehicle for purposes not permitted under ORS 805.050.

(11) The Public Utility Commission may issue heavy motor vehicle trip permits and registration weight trip permits. The division shall provide the permits to the Public Utility Commission.

**803.602 Statement of insurance coverage for light vehicle trip permit.** An applicant for a light vehicle trip permit for a motor vehicle must submit, at the time of application, a signed statement indicating that the vehicle that will be operated under

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the permit is covered by an insurance policy that meets the requirements of ORS 806.080 and will continue to be covered by the policy for as long as the permit is valid. The statement shall include the name of the insurer and the policy number. The division shall refuse to issue a permit to a person who does not submit the statement required by this section. [1991 c.360 §2]

**Note:** 803.602 was added to and made a part of ORS chapter 803 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**803.605 Erroneous issuance of trip permit; refund of fee.** When the division determines that it has erroneously issued a trip permit to a person who did not require the permit, the division may refund to the person any fee the person paid for the permit. [1985 c.313 §6]

**Note:** ORS 803.605 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 803 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**803.610 Reciprocity permits.** A reciprocity permit is a vehicle permit that may be issued to identify vehicles operating under a reciprocal agreement established under ORS 802.500. When required by an agreement, the division shall provide for the issuance of reciprocity permits as authorized by the agreement. All of the following apply to the issuance of permits under this section:

(1) The issuance of permits shall comply with the agreement authorizing their issuance.

(2) Permits may be used to identify vehicles entitled to operate within the areas described in an agreement. [1983 c.338 §273; 1985 c.668 §16]

**803.615 Temporary permit for registration applicant.** The division may issue a temporary permit in a form determined by the division to an applicant for registration to permit the applicant to operate the vehicle while the division is determining all facts relative to the right of the applicant to receive a certificate of title, regular registration plates and regular registration. [1983 c.338 §276; 1985 c.16 §112; 1985 c.401 §10; 1987 c.146 §9]

**803.620** [1983 c.338 §277; 1989 c.109 §2; repealed by 1989 c.43 §37]

**803.625 Temporary registration permits issued by agents.** (1) Persons designated by the division under ORS 802.030 to accept applications for the registration of vehicles are authorized to issue temporary permits for the operation of vehicles or the transporting of a camper pending the receipt of permanent registration plates from the division.

(2) Forms for temporary permits issued under this section shall be furnished and, subject to ORS 803.640, prescribed by the division.

(3) The division shall specify, by rule, the procedures to be followed by persons issuing and using temporary permits issued under this section. Persons violating rules established by the division under this subsection are subject to penalty under ORS 803.630 and 803.635. [1983 c.338 §278; 1985 c.284 §3]

**803.630 Agent violation of temporary registration permit procedures; penalty.**

(1) A person commits the offense of agent violation of temporary registration permit procedures if the person is authorized to issue temporary registration permits under ORS 803.625 and the person violates any rules adopted by the division concerning the procedures for issuing the permits.

(2) The offense described in this section, agent violation of temporary registration permit procedures, is a Class B traffic infraction. [1983 c.338 §279]

**803.635 Improper use of temporary registration permit; penalty.**

(1) A person commits the offense of improper use of temporary registration permit if the person is issued a temporary registration permit under ORS 803.625 and the person does any of the following:

(a) Violates any rule adopted by the division under ORS 803.625 concerning the use of the permit.

(b) Fails to keep the permit on and upon the vehicle during the period until the receipt of the permanent registration plates.

(c) Fails to remove the permit from the vehicle upon receipt of permanent registration plates.

(2) The offense described in this section, improper use of temporary registration permit, is a Class B traffic infraction. [1983 c.338 §280]

**803.640 Prohibition on showing name and residence address on permit.**

(1) Vehicle permits issued under ORS 803.600 to 803.615 that are required to be displayed so as to be visible from the outside of a vehicle shall not show the name or residence address of the registered owner of the vehicle or of the person who has applied for registration or titling of the vehicle.

(2) The division may require that permits described in this section contain the driver license number of the registered owner or of the person who has applied for registration or titling of the vehicle displaying the permit and the name of the state that issued the driver license.



(3) If the division determines that the information authorized by subsection (2) of this section is not sufficient to identify the registered owner or person who has applied for registration or titling of a vehicle issued a permit described in this section, the division may require that the person operating the vehicle have in the person's possession any information the division determines is necessary for identification. Such information, if required, shall be on a form prescribed by rule by the division and may not be required to be displayed so as to be visible from outside the vehicle. [1985 c.284 §2]

**803.645 Fees for trip permits.** Fees for trip permits issued under ORS 803.600 are as follows:

- (1) For a heavy motor vehicle trip permit, \$21.
- (2) For a heavy trailer trip permit, \$10.
- (3) For a light vehicle trip permit:
  - (a) For 10 days, \$5.
  - (b) For 30 days, \$10.
  - (c) For 60 days, \$20.
  - (d) For 90 days, \$30.
  - (e) For 120 days, \$40.
- (4) For a registration weight trip permit, \$5.
- (5) For a registered vehicle trip permit, \$5.
- (6) For a mobile home trip permit, \$5. [1983 c.338 §281; 1985 c.16 §113; 1985 c.313 §5; 1985 c.400 §4; 1989 c.43 §30; 1989 c.109 §3; 1989 c.723 §14; 1991 c.284 §20; 1991 c.360 §3]

**803.650 Placement of permits in vehicles.** (1) A permit issued under ORS 803.600, 803.615 or 803.625 shall be placed on the left side of the rear window of the vehicle unless:

- (a) The vehicle has no rear window; or

(b) The design of the vehicle or of any equipment lawfully added to the vehicle is such that a permit placed as required by this section could not easily be seen from outside the vehicle.

(2) The division shall adopt rules for the placement of permits that cannot be placed on the left side of the rear window of a vehicle. [1987 c.166 §2]

**803.655 Improper display of a permit; penalty.** (1) A person commits the offense of improper display of a permit if the person is issued a permit under ORS 803.600, 803.615 or 803.625, and the person does not display the permit on the vehicle in the manner required by ORS 803.650 or as required by the division by rule.

(2) The offense described in this section, improper display of a permit, is a Class B traffic infraction. [1987 c.166 §4]

**803.660 Color and size of permits.** The color and size of the print on permits issued under ORS 803.600, 803.615 and 803.625 shall be such that the permits can easily be read. [1987 c.166 §3]

**803.665 Towing commercial fishing boat without permit.** Notwithstanding ORS 803.600, a person may tow the person's own commercial fishing boat without a trip permit and regardless of the weight permitted under the registration of the trailer if the combined weight of the towing vehicle, the trailer and the boat is 15,000 pounds or less. [1989 c.992 §12b]

## CHAPTER 804

[Reserved for expansion]

graph (a) of subsection (4) of this section, or impose a lesser term of imprisonment, when the court expressly finds mitigating circumstances justifying such lesser sentence and sets forth those circumstances in its statement on sentencing. [1979 c.779 §2; 1985 c.552 §1; 1989 c.790 §72; 1989 c.839 §18; 1991 c.133 §3]

**161.615 Prison terms for misdemeanors.** Sentences for misdemeanors shall be for a definite term. The court shall fix the term of imprisonment within the following maximum limitations:

- (1) For a Class A misdemeanor, 1 year.
- (2) For a Class B misdemeanor, 6 months.
- (3) For a Class C misdemeanor, 30 days.
- (4) For an unclassified misdemeanor, as provided in the statute defining the crime.

[1971 c.743 §75]

**Note:** Section 51, chapter 790, Oregon Laws 1989, as amended by section 9, chapter 830, Oregon Laws 1991, provides:

**Sec. 51.** (1) Notwithstanding the provisions of ORS 161.615, the maximum term of jail incarceration for a Class A misdemeanor committed on or after November 1, 1989, shall not exceed six months unless the sentencing judge finds on the record substantial and compelling reasons to impose a longer term.

(2) The provisions of subsection (1) of this section do not apply to sentences imposed for:

(a) Violations of ORS 163.415, 163.435, 163.465, 163.575 or 813.010;

(b) An attempt to commit a crime described in ORS 163.355, 163.385, 163.425 or 163.525; or

(c) Any other sex crime that can be treated as a misdemeanor on sentencing.

(3) This section does not expand the scope of review in any appeal from a judgment of conviction as provided in ORS 138.040 or 138.050.

(4) ORS 138.222 does not apply in any appeal of a judgment of conviction that is subject to this section.

(5) This section is repealed November 1, 1993. [1989 c.790 §51; 1991 c.830 §9]

**161.620 Sentences imposed upon remand from juvenile court.** Notwithstanding any other provision of law, a sentence imposed upon any person remanded from the juvenile court under ORS 419.533 shall not include any sentence of death or life imprisonment without the possibility of release or parole nor imposition of any mandatory minimum sentence except that a mandatory minimum sentence under ORS 163.105 (1)(c) shall be imposed where the person was 17 years of age at the time of the offense. [1985 c.631 §9; 1989 c.720 §3]

**Note:** 161.620 was added to and made a part of ORS 161.615 to 166.685 by legislative action but was not added to any smaller series in that series. See Preface to Oregon Revised Statutes for further explanation.

**161.625 Fines for felonies.** (1) A sentence to pay a fine for a Class A, B or C felony shall be a sentence to pay an amount, fixed by the court, not exceeding \$100,000.

(2) A sentence to pay a fine for an unclassified felony shall be a sentence to pay an amount, fixed by the court, as provided in the statute defining the crime.

(3)(a) If a person has gained money or property through the commission of a felony, then upon conviction thereof the court, in lieu of imposing the fine authorized for the crime under subsection (1) or (2) of this section, may sentence the defendant to pay an amount, fixed by the court, not exceeding double the amount of the defendant's gain from the commission of the crime.

(b) The provisions of paragraph (a) of this subsection do not apply to the felony theft of a companion animal, as defined in ORS 164.055, or a captive wild animal.

(4) As used in this section, "gain" means the amount of money or the value of property derived from the commission of the felony, less the amount of money or the value of property returned to the victim of the crime or seized by or surrendered to lawful authority before the time sentence is imposed. "Value" shall be determined by the standards established in ORS 164.115.

(5) When the court imposes a fine for a felony the court shall make a finding as to the amount of the defendant's gain from the crime. If the record does not contain sufficient evidence to support a finding the court may conduct a hearing upon the issue.

(6) Except as provided in ORS 161.655, this section shall not apply to a corporation. [1971 c.743 §76; 1981 c.390 §1; 1991 c.837 §11]

**161.635 Fines for misdemeanors and violations.** (1) A sentence to pay a fine for a misdemeanor shall be a sentence to pay an amount, fixed by the court, not exceeding:

- (a) \$2,500 for a Class A misdemeanor.
- (b) \$1,000 for a Class B misdemeanor.
- (c) \$500 for a Class C misdemeanor.

(2) A sentence to pay a fine for an unclassified misdemeanor shall be a sentence to pay an amount, fixed by the court, as provided in the statute defining the crime.

(3) A sentence to pay a fine for a violation shall be a sentence to pay an amount, fixed by the court, not exceeding \$250.

(4) If a person has gained money or property through the commission of a misdemeanor or violation, then upon conviction thereof the court, instead of imposing the fine authorized for the offense under subsection (1), (2) or (3) of this section, may sentence the defendant to pay an amount fixed by the court, not exceeding double the amount of the defendant's gain from the commission of the offense. In that event, ORS 161.625 (4) and (5) apply.

(5) This section shall not apply to corporations. [1971 c.743 §77; 1981 c.390 §2]

**161.645 Standards for imposing fines.** In determining whether to impose a fine and its amount, the court shall consider:

(1) The financial resources of the defendant and the burden that payment of a fine will impose, with due regard to the other obligations of the defendant; and

(2) The ability of the defendant to pay a fine on an installment basis or on other conditions to be fixed by the court. [1971 c.743 §78]

**161.655 Fines for corporations.** (1) A sentence to pay a fine when imposed on a corporation for an offense defined in the Oregon Criminal Code or for an offense defined outside this code for which no special corporate fine is specified, shall be a sentence to pay an amount, fixed by the court, not exceeding:

(a) \$50,000 when the conviction is of a felony.

(b) \$5,000 when the conviction is of a Class A misdemeanor or of an unclassified misdemeanor for which a term of imprisonment of more than six months is authorized.

(c) \$2,500 when the conviction is of a Class B misdemeanor or of an unclassified misdemeanor for which the authorized term of imprisonment is not more than six months.

(d) \$1,000 when the conviction is of a Class C misdemeanor or an unclassified misdemeanor for which the authorized term of imprisonment is not more than 30 days.

(e) \$500 when the conviction is of a violation.

(2) A sentence to pay a fine, when imposed on a corporation for an offense defined outside the Oregon Criminal Code, if a special fine for a corporation is provided in the statute defining the offense, shall be a sentence to pay an amount, fixed by the court, as provided in the statute defining the offense.

(3) If a corporation has gained money or property through the commission of an offense, then upon conviction thereof the court, in lieu of imposing the fine authorized for the offense under subsection (1) or (2) of this section, may sentence the corporation to pay an amount, fixed by the court, not exceeding double the amount of the corporation's gain from the commission of the offense. In that event, ORS 161.625 (4) and (5) apply. [1971 c.743 §79]

**161.665 Costs.** (1) The court, only in the case of a defendant for whom it enters a judgment of conviction, may include in its sentence thereunder a provision that the convicted defendant shall pay as costs ex-

penses specially incurred by the state in prosecuting the defendant. Costs include a reasonable attorney fee for counsel appointed pursuant to ORS 135.045 or 135.050 and a reasonable amount for expenses approved under ORS 135.055. A reasonable attorney fee is presumed to be a reasonable number of hours at the hourly rate authorized by the State Court Administrator under ORS 151.430. Costs shall not include expenses inherent in providing a constitutionally guaranteed jury trial or expenditures in connection with the maintenance and operation of government agencies that must be made by the public irrespective of specific violations of law.

(2) The court, after the conclusion of an appeal of its initial judgment of conviction, may include in its final judgment or modify the judgment to include a requirement that a convicted defendant pay as costs a reasonable attorney fee for counsel appointed pursuant to ORS 138.500, including counsel who is the Public Defender established by ORS 151.280 or counsel who is under contract to provide services for the appeal pursuant to ORS 151.460, and other costs and expenses allowed by the appellate court under ORS 138.500 (4). A reasonable attorney fee is presumed to be a reasonable number of hours at the hourly rate authorized by the State Court Administrator under ORS 151.430.

(3) The court shall not sentence a defendant to pay costs unless the defendant is or may be able to pay them. In determining the amount and method of payment of costs, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of costs will impose.

(4) A defendant who has been sentenced to pay costs and who is not in contumacious default in the payment thereof may at any time petition the court which sentenced the defendant for remission of the payment of costs or of any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the immediate family of the defendant, the court may remit all or part of the amount due in costs, or modify the method of payment under ORS 161.675.

(5) All moneys collected or paid under this section shall be paid into the General Fund and credited to the Criminal Fine and Assessment Account. [1971 c.743 §80; 1981 s.s. c.3 §120; 1983 c.763 §12; 1985 c.710 §3; 1987 c.803 §26; 1989 c.1053 §11; 1991 c.460 §12; 1991 c.840 §1]

**Note:** Section 2, chapter 840, Oregon Laws 1991, provides:

**Sec. 2.** The amendments to ORS 161.665 by section 1 of this Act apply to all cases in which counsel is appointed on or after January 1, 1992. [1991 c.840 §2]

APPENDIX F

Vehicle Population In I/M Areas in 1992

Medford:

Passenger Cars, LDT1, LDT2	96,000
HDV (GVWR greater than 8500 lb)	3,500

Portland:

Passenger Cars, LDT1, LDT2	644,000
HDV (GVWR greater than 8500 lb)	22,900

APPENDIX G

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE MEMO

TO: Ron Householder

DATE: June 29, 1983

FROM: Bill Jasper

SUBJECT: Update on License Survey

In the license survey recently completed, 397<sup>310</sup> entries of the 4,205 were unverifiable through phone company records as being correctly registered out of the MSD. This was 7.4% of the total sample. To follow up on that group, a random sample of 28 names were selected to cross reference the driver's license address with that shown on the vehicle registration.

Of those 28 individuals, 15 had listing showing the same address of residence on drivers and passenger car registration. Five individuals did not have driver's licenses. Two had licenses that were about several years expired. The remaining six appear to have a major difference in drivers license and residence address, possibly in an effort to avoid the inspection program requirement.

Specifically, the eight records, including the two expired licenses, are listed.

Shadwick, John Frank (D.O.B. 01/12/66)  
(ODL) 9605 S.E. 78th, Portland  
(P.C.R.) 34141 S.E. Gunderson Rd., Sandy  
1976 Chev (DQS018) was observed at Washington Square  
Last issue date of drivers license 1/12/82  
Last issue date of passenger car registration 5/07/82  
No phone company listing

Wronski, Robert Jules (D.O.B. 12/11/55)  
(ODL) 3620 S.E. 159th Ave., Portland  
(P.C.R.) 39645 Loundree Dr., Sandy  
1979 Chev (LQP005) was observed at the Fred Meyer @ 122nd & Division  
Last issue date of drivers license 12/22/81  
Last issue date of P.C. Registration 10/15/81  
Vehicle license records indicate expired plates  
Telephone book shows address of 14315 N.E. Alton Ct.

Update on License Survey

June 29, 1983

Page 2

Dompiar, Allen Mark (D.O.B. 3/20/53)  
(ODL) 2247 N.E. Vine St., Roseburg  
(P.C.R.) 2247 N.E. Vine St., Roseburg  
1968 English Ford (ASC457) observed at Fred Meyer @ Beaverton Town Center  
Last issue date drivers license 7/27/79 - Expired  
Last issue date P.C. Registration 10/26/82  
No phone company listing

Urverrich, Wayne Lester (D.O.B. 9/15/19)  
(ODL) 2812 S.E. 34th, Portland  
(P.C.R.) 22230 Gooseneck Rd., Sheridan  
1977 Datsan (DKR489) observed at Fred Meyer @ 39th & Hawthorne  
Last issue date of drivers license 9/14/81  
License plates expired, April, 1983  
Phone book lists address of 2812 S.E. 34th, Portland

McKnight, Robert Eugene (D.O.B. 2/28/39)  
(ODL) 14548 S. Ironwood Rd., Oregon City  
(P.C.R.) 15741 S. Gilchrist Rd., Mulino  
1976 Datsan (CNP740) observed at work parking NE Columbia/Mallory  
Last issue date drivers license 2/22/83  
Last issue date P.C. Registration 4/4/83  
No phone company listing

Hamerlynck, Gayne Mae (D.O.B. 2/22/27)  
(ODL) 890 Cumberland Pt., Lake Oswego  
(P.C.R.) Rt. 2 Box 35D, Tidewater  
1973 Chev (HGN250) observed at Safeway Store, Lake Oswego  
Last issue date drivers license 2/10/83  
Car license expired August '82  
No phone listing

Cameron, Rodney Scott (D.O.B. 3/3/46)  
(ODL) 83225 N. Rogers Rd., Creswell  
(P.C.R.) 2798 Canterbury St., Springfield  
1974 Chev (JRR267) observed 4th & Washington parking lot  
Last issue date drivers license 3/6/72 - license expired  
Last issue date P.C. Registration 7/15/82  
Phone book address listing, 12701 S.E. King Rd., Portland

Dalzell II, Donald Edgard (D.O.B. 2/3/44)  
(ODL) 937 S.E. 180th, Portland  
(P.C.R.) PLR 125 Berratta Way, Prineville  
1967 Chev (ECD508) observed at FMC parking area NW Front Avenue  
Last issue date of drivers license 1/29/82  
Last issue date of P.C. Registration 8/27/82  
Phone book address listing 3040 N. Melrose Dr., Portland

Update on License Survey  
June 29, 1983  
Page 3

From this check, the results of the recent survey can be modified as follows:

Percent of vehicles observed with out of area registration	14.6%
Percent verified as having correct out of area registration	App. 11 %
Percent suspect of mis- registration	App. 3.6%
Percent of inquiries unable to be located in MVD records	4.6%

There are several alternatives to consider for those individuals listed above.

- 1) Contact them by a letter which indicates that the discrepancies have been found in a computer check with a follow up for inspection requirements, etc.
- 2) Forward the information to the proper authorities for follow up.
- 3) Do nothing, since only six to eight individuals have been identified.

A proposed draft of a follow up letter is attached.

BJ:a  
Attachment  
VA3512

Dear \_\_\_\_\_:

During a recent computer check of Motor Vehicle passenger car registration records with drivers license records, certain discrepancies were noted. Specifically, the address in your passenger car registration shows your residence as being outside of the Metropolitan Service District and not subject to the DEQ inspection requirements while your drivers license lists your residence within the Portland Metropolitan area.

Oregon law ORS 481.190 requires that all residents of the Metropolitan Service District must comply with the inspection program requirements in order to register or re-register their vehicle. The Attorney General's office has indicated that individuals falsifying the Motor Vehicle registration information could be subject to criminal prosecution.

You should take the necessary action to see that your vehicle(s) are properly registered at your full time residence, and make sure that you comply with the Oregon law. If you have any questions, please contact this office.

Sincerely,

#(SIGNER)  
 #(TITLE)  
 #(DIVISION)

#(AUTHOR'S INITIALS): #(TYPIST'S INITIALS)  
 VA3512.1


ATTACHMENT A-2



MEMO

TO: Ron Householder

DATE: July 29, 1987

FROM: Bill Jasper 

SUBJECT: ESTIMATE OF EFFECTS OF MISSING VEHICLES IN JACKSON COUNTY

I have been working with Ted Wacker to document the number of vehicles going through the inspection in Medford that did not return to be re-inspected and pass. The purpose of the study was to determine the status of the vehicle's registration -- as to whether the vehicle has been re-registered, has a change of address (to outside of the I/M boundaries), or is in an unregistered status. In the past, a variety of explanations have been offered as to what was happening, but using the baseline data which was purchased from Motor Vehicles prior to the start up of the I/M program, we can document what has happened to these vehicles.

To accomplish this task, the data from the Rogue Valley station was divided into monthly categories. These categories consisted of the vehicle records that passed and those that failed. The failed group was put into monthly batches, while the passed vehicles were grouped together from the start of the data period until the run date (mid-June/July). Computer matching of those vehicles that failed and did not return to pass was then made. This group of vehicles that has yet to pass was then matched against the Jackson county vehicle registration file for 1985. This resulted in two final groups of failed vehicles that did not return -- those vehicles that were originally registered in Jackson county in 1985 and those that were not.

Vehicle listings for those vehicles originally registered in Jackson County that did not pass the I/M test were then sent to MVD for look up. There were a few problems in getting that tape read by MVD, but we have finally got the initial results for January 1987.

There is a brief summary of the January 1987 results. Look ups were done on 318 vehicle licenses. MVD records indicated that 142 of those vehicles had been re-registered. That is about 45% of the total. That also means that 55% of the vehicles have not been re-registered, and can be considered to have expired registrations. Of the vehicles that have been re-registered, 37 of them (26%) appear to be properly registered. Thirty-one of the vehicles that passed (22%) were not in the original data base. Re-registered vehicles to new owners counted 41 (29%), and 24 vehicles (17%) had new resident addresses within Jackson County. Nine of the re-registered vehicles (6%), were re-registered to addresses outside of Jackson County. Two of those were to businesses.

The results from the checking of the February and March batch of vehicles that initially failed the inspection test have been received back from MVD. This data indicates that a higher than expected percentage of individuals are avoiding the inspection

ATTACHMENT A-2

program requirements, either by not bothering to register their vehicles or by other means. The data was reviewed with the purpose of obtaining an estimate of the amount of vehicles that appeared to have been registered out-of-area for the apparent purpose of avoiding compliance with the inspection.

Over the past four months, February through June, almost 13% of the vehicles that failed the inspection test in Medford have failed to come back through to get the certificates. That rate varied from 11-13%. Of these vehicles, about half were from out of area. The other half could be found on the historical record of Jackson County registrations (Dec 1985). When the vehicles that were on the historical file, had registration follow up with MVD, Over about 40% had obtained current registrations. The remaining 60% of initially failed vehicles appear to be operating without current or valid registration or under temporary registration.

Of those vehicles that were re-registered, about 20% of the total sample, or 44% of the vehicles re-registered, showed a registration address that is out of the inspection program area. That was divided fairly evenly, for the case of Jackson County vehicles, between those registering in the county, but out of the AQMA, and those registering out of the county. Motor Vehicle Division indicates that it does not keep any records of the filings of the form 1400 and 1402 -- those forms for declaring exemption from the inspection requirements. I do not have an estimate of the number of vehicles that might have avoided the inspection requirements without having an initial test.

What we have now is better documentation of the amount of I/M program avoidance that is occurring in the Jackson County area. The original samples from parking lot surveys, indicated that for both Portland and Medford, about 5-10% was a good guess of the amount of this activity. The rate now appears to be nearer the 10% level, rather than the 5% figure.

As an example of a vehicle that appears not to have been re-registered is the vehicle owned by Mr. Mason. Mr. Mason was the individual who had been earlier referred to the Department by Sen. Hannon. In that case, Mr. Mason had an older pickup truck, that is in need of major engine repair. From the license look up, it would appear that Mr. Mason is choosing to operate the vehicle either by using "trip tickets" or by just allowing the registration to remain expired. Mr. Mason may also have chosen to have the vehicle garaged, and is not operating it at all.

Registering vehicles out of area has been one of those activities that has been known about for some time, but documenting the extent of the problem has been difficult. Often times these registrations are at beach or mountain second residences. In other instances they are at the homes of friends or relatives.

The "lost" vehicle rates for the sample periods was considerably higher. If the levels of program avoidance, either through out of area registration, or not bothering to register the car remain at high levels the air quality impact by this activity will be much higher than we have been estimating. Enforcement on this part of the registration system has historically been viewed

by us as the responsibility of the Motor Vehicles Division. MVD on the other hand, has had other priorities on which they focus their attentions. The reality is that neither agency is equipped to handle enforcement or documenting the truthfulness of registration information provided by motorists. Because of the ongoing nature of this activity and our ability to better document both the extent of the problem and its air pollution impact, other ways of obtaining enforcement need to be considered.

One area of improvement in enforcement that should be explored is to improve the dialog with local governmental officials. By opening communication with local officials, they can be made aware of the possible lost revenues from the highway gas tax monies that the individual counties in the I/M areas are loosing. As an example, the highway fund revenues for 1987 are about \$800,000,000.00. Counties in Oregon receive 20% of that amount based upon the vehicle population count percentage for December 31 of each year. Cities in Oregon receive 12% of the fund, based upon people population. If for example, Jackson County had 113,000 vehicles out of the state wide total of 2,025,000 vehicle population, then Jackson County would receive almost \$9,000,000 in highway gas tax monies for road construction and repair. If because of improper registrations, the vehicle count was reduced by 5%, the revenue to Jackson County would be reduced by about \$446,000. If the out of area registrations were at the 10% level, the revenue loss to Jackson County would be about \$900,000.

When estimating the loss to the tri-county area, the following figures are developed. The tri-county area has about 35% of the state's vehicle population. The total highway fund revenue to the three counties is \$56,000,000. A 5% loss in registration counts costs the Portland area counties \$2,800,000. A 10% loss in vehicle count costs these counties \$5,600,000. The financial beneficiaries of this activity are the 29 non-I/M Oregon counties.

One thing that the Department can do is to encourage local governments to start enforcing, with more rigor, the State's vehicle registration laws. Police agencies in I/M areas should be encouraged to cross reference vehicle owners' driver's licenses with their registration address, and cite for incorrect information as part of their normal duties. This could be accomplished by having either the Director or the Commission contact the local County Commissions and advise them of their potential loss in gas tax revenues, as well as the adverse air quality impact on their local areas. If you concur, I will begin to prepare a Commission report on this subject. The local County Commissions could then use their position to gain the cooperation of the local police agencies. To be effective the local County Commissions would need to followed up with the local courts, encouraging the courts to provide that I/M area residents obtain the Certificate of Compliance that the owner was apparently seeking to avoid. The result would be improved air quality which would result from the additional participation in the I/M program. Counties which have the I/M program operating, would benefit by receiving the full measure of road repair funds due to them.

Their costs of enforcement would be covered through the revenue generated by the fines imposed by the courts. And the Department's I/M program would be more fully utilized, and I/M revenue shortfalls would be reduced.

What can we do about this? As indicated, we need to enlist the support of the county governments, because it is these bodies, that are loosing their share of the gas tax monies. With the proposed increase in the gas tax, their share becomes more important. In addition, there are a variety of actions that we can take right now to try and improve our capture rate.

The first of these is to begin working with MVD to increase their enforcement efforts, including having them follow through on the "flagged" vehicles that are reported to them by their field offices. The second thing that MVD can start to do is to keep a record of the number of exemptions (1400 and 1402 forms) including the "flagging" of those vehicles that have the out of state exemption filed.

DEQ can consider the addition of a couple of items for better I/M program operation. The most visible item would be the use of window stickers (already authorized in statute) in addition to the Certificate of Compliance. This would visibly identify vehicles that passed the inspection test. If window stickers were used refund policy would need to be modified. DEQ can initiate discussions with the various counties that encompass the testing regions, to request that law enforcement officials begin enforcement of registration laws in addition to citing for the offense that was the reason for a traffic stop. The counties can urge that the courts in their counties provide that evidence of a valid Certificate of Compliance be an appropriate part of the penalty that can be imposed on individuals that plead guilty to registration violations.

Because about half of the avoidance in Jackson County appears to be within the County as well as outside of the County, consideration should be given to requesting that the Commission change the boundaries of the inspection area to the entire county. Having a county wide program was part of the original SIP plan, was part of Jackson County's original county operated I/M program and was the recommendation of the majority of the persons testifying before the Commission's Hearing Officer when I/M rules were adopted. The political consideration of inconveniencing the minimum amount of people through the I/M requirement, while well intended, appears to have promoted some of the Jackson County citizens to bend the law to avoid the program.

For the future, the Department should prepare a legislative decision package for the next session of the legislature that would expand the boundaries of the inspection program in the Portland area to be consistent with county boundaries, rather than the current Metropolitan Service District. It seems to me that after the number of years that this program has operated, people in the inspection program area would support county wide areas of inspection, as opposed to the "you're in or you're out" type of program now operating.

To facilitate the enforcement of improved I/M operations, the Department should consider proposing specific legislation that

would allow for random roadside inspection, either directly by DEQ teams or in conjunction with Police efforts.

07/29/87

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE MEMO

TO: Ron Householder

DATE: June 14, 1983

FROM: Bill Jasper

SUBJECT: License Survey 1983

A license survey was recently conducted to measure the extent of out of area registrations. The method that was followed was to select at random approximately 1% of the vehicles observed operating in the Metropolitan area. The license numbers from these vehicles were recorded and sent to MVD for look-up. The output from MVD was reviewed and divided into 4 major categories. 1) The address is in the Metropolitan Service District, 2) The address is outside the MSD but phone company records indicate that it is the correct address, 3) The address is outside the MSD and phone company records do not show a listing for that name in that town, and 4) Records flagged by Motor Vehicle Division as having been sold or some other similar reference.

The overall results of the survey are listed in Table 1. The data indicates that on an overall basis, about 14% of the observed Oregon registered vehicles were registered outside of the Metropolitan Service District. About half of those vehicles might be considered to be incorrectly registered, because no address verification could be found in the local area phone books, 310 vehicles which fall in this category. Of those 310, eighty-seven similar names were noted in the local Portland area phone books. The overall category for listing as sold, title of transfer in process, unable to locate, was 4.0%.

This type of survey has been done in the past. Several years ago, about 10% of the vehicles were listed as out of area vehicles, and about 5% were suspect. Record irregularities accounted for about 2-3%.

Three general categories of sampling locations were chosen - work areas, shopping malls, and grocery centers. The sites selected were distributed around the MSD. High levels of out of area use were observed in border areas as Oregon City.

Tables 2 and 3 list the individual sites, listing first the raw data and then the data in normalized form. In reviewing the normalized data, the spread and scatter is apparent. Out of area registrations ranged from 3% to 28%, depending on the site. Most high out of area registrations were observed at locations where it would not be unexpected. The median value was 11.7%.

Verified out of area registrations ranged from 0 to 17.4%. The median level was 5.3%. Suspect out of area registration ranged from 1.3 to 14.0% with a median level of 5.8%. For vehicle owners in this category, a check of local phone books for names of similar listing was made. Similar listings ranged from 0 to 7% for the various sites with a median 1.5%. Discrepancies associated with the MVD records, sold "flags", and other "noise" varied from 1.8% to 8.9% for the various sample sites. The median level of "noise" was 3.2% for all sample sites.

As a final means of comparison, the data was then compared on the basis of whether the site was a "work", "shopping", or "grocery" site. Table 4 lists those findings. "Shopping" sites, such as the regional shopping centers, had the highest level of outside area registrations, followed by "work" sites, then "grocery" sites.

From this sample and project, one could conclude that:

- 1) Motor Vehicle Division records indicate that about 15% of the Oregon registered motor vehicles are registered outside of the Metropolitan Service District.
- 2) About half of those observed in the sample as outside the MSD can be verified through the telephone book as having the same out of area address as listed on the vehicle registration.
- 3) About half of those observed in the sample cannot be verified through the telephone book.
- 4) About 2% of the sample falls into a category where their registration indicates an out of MSD address that cannot be verified through the telephone book, and persons with the same or similar name are listed as inside the MSD through the telephone listings.
- 5) About 4% of the sample was "noise" where good records could not be obtained.
- 6) "Shopping Centers" have a higher observed incidence of out of area registrations than either "work" or "grocery" locations.

WJ:a  
VA3455

TABLE 1

SUMMARY OF LICENSE SURVEY - APRIL - MAY 1983

Overall Sample Size	4205
Percent of Vehicles Registered Outside M.S.D. ....	14.6%
Percent of Vehicles Verified .....	7.2%
Percent of Vehicles Unable to be Verified as Being Outside M.S.D. ....	7.4%
Percent of Vehicles for Which Current Records Unavailable .....	4.0%



TABLE 2

DATA FROM LICENSE SURVEY, APRIL - MAY 1983

Location	Sample Size	Registered Outside MSD	Verified Outside MSD	Not Found At Registered Address	Similar Name Found	Other
F.M.C. Lot	176	27	11	16	8	13
Lloyd Center	138	20	12	8	3	10
F.M. NE Union	84	6	3	3	-	4
Jantzen Beach	146	27	11	16	4	13
Wards	84	6	3	3	1	4
F.M. N. Lombard	145	14	6	8	1	6
F.M. SE 82nd	195	23	6	17	8	14
Clackamas Town Center	199	52	26	26	5	12
Mall 205	99	15	6	9	7	4
Oregon City Shopping Center	98	22	14	8	1	7
F.M. Ore. City	171	48	24	24	1	8
Safeway - Mil.	123	5	3	2	1	7
F.M. SE Division	170	10	5	5	2	4
F.M. 185/Stark	170	21	7	14	3	5
F.M. E. Burnside	218	57	38	19	8	7
F.M. Rose City	74	3	2	1	-	6
F.M. Hollywood	98	3	-	3	1	2
F.M. Hawthorne	171	13	7	6	2	4
Alb. 39/Belmont	74	7	1	6	3	2
Safeway - L.O.	81	11	7	4	-	1
Kienows - L.O.	41	3	1	2	1	1
Garage 4/Wash.	297	32	18	14	6	6
VA3455	3052	425	211	217	66	140

TABLE 2 (Continued)

DATA FROM LICENSE SURVEY, APRIL - MAY 1983

Location	Sample Size	Registered Outside MSD	Verified Outside MSD	Not Found At Registered Address	Similar Name Found	Other
Garage 4/Morrison	120	23	14	9	3	6
Garage 3/Morrison	66	7	4	3	1	2
59th/Columbia	94	10	5	5	-	4
Columbia/Mallory	106	8	4	4	-	3
Tektronix/Beav.	401	59	24	35	11	8
F.M. Beaverton	226	30	11	19	1	7
Safeway 185/TV	72	5	0	5	2	2
Safeway Hills.	60	13	10	3	2	1
Washington Square	198	35	22	13	1	4
TOTAL	4205	615	305	310	87	167
	1343	190	94	96	21	37
	4395	615	305	310	87	177

TABLE 3

LICENSE SURVEY APRIL - MAY 1983

## NORMALIZED DATA

Location	% Registered Outside MSD	% Verified Outside MSD	% Not Verified	% Similar	% Other
F.M.C. Lot	15.0	6.2	9.0	4.5	7.3
Lloyd Center	14.5	8.6	5.8	2.1	7.2
F.M. NE Union	7.1	3.5	3.5	-	4.7
Jantzen Beach	18.4	7.5	10.9	2.7	8.9
Wards	7.1	3.5	3.5	1.2	4.7
F.M. N. Lombard	9.6	4.1	5.5	0.7	4.1
F.M. SE 82nd	11.7	3.0	8.7	4.1	7.1
Clackamas Town Center	26.1	13.0	13.0	2.5	6.0
Mall 205	15.0	6.0	9.0	7.0	4.0
Ore. City Shopping Center	22.0	14.2	8.1	1.0	7.1
F.M. Ore. City	28.0	14.0	14.0	0.6	4.7
Safeway - Mil.	4.0	2.4	1.6	0.8	5.6
F.M. SE Division	5.8	2.9	2.9	1.2	2.3
F.M. 185/Stark	12.3	4.1	8.2	1.7	2.9
F.M. E. Burnside	26.1	17.4	8.7	3.6	3.2
F.M. Rose City	4.0	2.7	1.3	-	8.0
F.M. Hollywood	3.0	-	3.0	1.0	2.0
F.M. Hawthorne	7.6	4.0	3.5	1.1	2.3
Alb. 39/Belmont	9.4	1.3	8.1	4.0	2.7
Safeway - L.O.	13.5	8.6	4.9	-	1.2

VA3455

ATTACHMENT A-2

TABLE 3 (Continued)

LICENSE SURVEY APRIL - MAY 1983

## NORMALIZED DATA

Location	% Registered Outside MSD	% Verified Outside MSD	% Not Verified	% Similar	% Other
Kienows - L.O.	7.3	2.4	4.8	2.4	2.4
Garage 4/Wash.	10.7	6.0	4.7	2.0	2.0
Garage 4/Morrison	19.1	11.6	7.5	2.5	5.0
Garage 3/Morrison	10.6	6.0	4.5	1.5	3.0
59th/Columbia	10.6	5.3	5.3	-	4.2
Columbia/Mallory	7.5	3.7	3.7	-	2.8
Tektronix/Beav.	14.7	5.9	8.7	2.7	1.9
F.M. Beaverton	13.2	4.8	8.4	0.4	3.0
Safeway 185/TV	6.9	-	6.9	2.7	2.7
Safeway Hills.	21.6	16.6	5.0	3.3	1.6
Washington Square	17.6	11.1	6.5	0.5	2.0

TABLE 4

## COMPARISON OF NORMALIZED DATA ON BASIS OF CATEGORY

<u>Category</u>	<u>% Out of Area Observed</u>
Work-Related	12.6
Shopping Center	17.2
Grocery	11.7

## NOTICE OF PROPOSED RULEMAKING HEARING

(Rulemaking Statements and Statement of Fiscal Impact **must** accompany this form.)

**AGENCY:** Department of Environmental Quality, Air Quality Division

The above named agency gives notice of hearing.

**HEARING TO BE HELD:**

DATE:	TIME:	LOCATION:
8/17/93	7:00 pm	Medford City Council Chambers, 411 W. 8th Street, Medford, Oregon
8/17/93	7:00 pm	State Office Building, 800 NE Oregon Street, Room 120, Portland, Oregon

Hearings Officer: Patti Seastrom (Medford Hearing)  
David Collier (Portland Hearing)

Pursuant to the Statutory Authority of ORS 468.375 the following action is proposed:

**ADOPT:** None

**AMEND:** OAR 340-24-005 through 340-24-350

**REPEAL:** None

Prior Notice Given; Hearing Requested by Interested persons

No Prior Notice Given

**SUMMARY:**

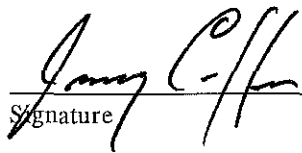
The proposed rules will update the vehicle inspection programs in the Portland and Medford areas to meet new federal Environmental Protection Agency (EPA) requirements. The major program changes include the upgrading from manual to computerized exhaust pollution testing equipment, revising the process of training and certifying DEQ vehicle inspectors and developing a more comprehensive quality assurance system for program operations. The revised program must be in full operation before July 1, 1994. The changes are mandated by the EPA as required by the federal Clean Air Act of 1990. The changes will produce a more automated vehicle test. The test time may be lengthened slightly because of the revised testing sequence required of the new computerized testing equipment.

Interested persons may comment on the proposed rules orally or in writing at the hearing. Written comments received by August 18, 1993, 5:00 p.m. 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:** Air Quality Division  
1301 S.E. Morrison  
Portland, Oregon 97214

**ATTN:** Jerry Coffey

**PHONE:** 503-731-3049 or Toll Free 1-800-452-4011

 7/7/93  
Signature Date

ATTACHMENT B-2

Revision of the State Implementation Plan to Reflect Changes in the Vehicle Inspection Program

Date Issued: August 1, 1993  
Public Hearings: August 17, 1993  
Comments Due: August 18, 1993

**WHO IS AFFECTED:** Vehicle owners in the Portland Metropolitan Service District and the Medford Air Quality Maintenance Area (85 percent of Jackson County Population)

**WHAT IS PROPOSED:** The proposed rules will update the vehicle inspection programs in the Portland and Medford areas to meet new federal Environmental Protection Agency (EPA) requirements.

**WHAT ARE THE HIGHLIGHTS:** The major program changes include the upgrading from manual to computerized exhaust pollution testing equipment, revising the process of training and certifying DEQ vehicle inspectors and developing a more comprehensive quality assurance system for program operations. The revised program must be in full operation before July 1, 1994 as mandated by EPA.

**HOW TO COMMENT:** Public Hearings to provide information and receive public comment are scheduled as follows:

Locations: Medford City Council Chambers  
411 W. 8th Street  
Medford, Oregon

State Office Building  
800 N.E. Oregon Street  
Room 120  
Portland, Oregon

Date: August 17, 1993 (both hearings)



Time: 7:00 p.m. (both hearings)

Written comments must be received by 5:00 p.m. on August 18, 1993 at the following address:

Department of Environmental Quality  
Air Quality Division  
811 S. W. 6th Avenue  
Portland, Oregon, 97204

A copy of the Proposed Rule may be reviewed at the above address. A copy may be obtained from the Department by calling the Air Quality Division at 503-731-3049 or calling Oregon toll free 1-800-452-4011.

**WHAT IS THE  
NEXT STEP:**

The Department will evaluate comments received and will make a recommendation to the Environmental Quality Commission. Interested parties can request to be notified of the date the Commission will consider the matter by writing to the Department at the above address.

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal  
for  
Revision the State Implementation Plan to Reflect Changes in the Vehicle Inspection  
Program

Rulemaking Statements

Pursuant to ORS 183.335(7), this statement provides information about the Environmental Quality Commission's intended action to adopt a rule.

1. Legal Authority

ORS 468.375

2. Need for the Rule

The federal Clean Air Act of 1990 required the federal Environmental Protection Agency to define minimum requirements for vehicle inspection maintenance programs. These regulations were published by EPA on November 5, 1992. The Department's existing vehicle inspection programs in Medford and Portland do not meet all of these requirements and must be revised to incorporate EPA requirements for a basic I/M program before July 1, 1994.

3. Principal Documents Relied Upon in this Rulemaking

Federal Clean Air Act of 1990  
EPA Inspection/Maintenance Program Requirements 40 CFR Part 51  
Checklist for Completing the Inspection/Maintenance SIP (EPA March 1993)

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal  
for

Revision of the State Implementation Plan to Reflect Changes in the Vehicle Inspection Program

## Fiscal and Economic Impact Statement

### Introduction

Most of the proposed changes in the Medford and Portland area vehicle inspection programs will have minimal economic impact. The one exception is the replacement of existing manual testing equipment with computerized equipment.

### General Public

The funding for the new equipment will not result in an increase in the vehicle inspection fee and will therefore have no economic impact on the Portland and Medford area communities in which the inspection program is operated.

### Small Business

The proposed changes will have little if any impact on small businesses.

### Large Business

One of the proposed changes will require private fleets that currently test their own vehicles to purchase computerized exhaust gas analyzers to provide better quality control of their testing operations. This provision will not require analyzer upgrading until the year 1999. A business must have at least 100 vehicles to be eligible to be a self-testing fleet. The cost of equipment replacement is expected to be approximately \$20,000 per analyzer. Because the useful life of equipment is approximately only 5 years and because of the long lead time, it is expected that the actual cost to businesses will be the difference in cost between their current type equipment and computerized equipment, which is approximately \$5,000 per analyzer.

### Local Governments

A local government entity is eligible to become a self-testing fleet if it owns at least 50 vehicles. As with business self-testing fleets, the proposed rules require testing equipment to be computerized by the year 1999. As with businesses the cost impact is anticipated to be about \$5,000 in the year 1999.

### **State Agencies**

The Department intends to purchase approximately 28 of the automated testing units at an allocated budget of \$538,250. No increase in the vehicle inspection fee is anticipated to fund this activity. In addition no short term staffing impact is seen.

A state agency is eligible to become a self-testing fleet if it owns at least 50 vehicles. The proposed rules require testing equipment be computerized by the year 1999. As with businesses, the cost impact is anticipated to be about \$5,000 per analyzer in the year 1999.

### **Assumptions**

Economic impacts above are estimated on the basis that DEQ will continue to operate a basic testing program rather than moving in the next few years to an enhanced testing program. If the Department, by Oregon legislative direction, upgrades to an enhanced testing program, EPA will likely not allow full I/M testing emission benefits if fleet vehicles are both tested and repaired by the same entity. Therefore, an alternative fleet testing procedure may have to be developed.

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal  
for

Revision of the State Implementation Plan to Reflect Changes in the Vehicle Inspection Program

Land Use Evaluation Statement

**1. Explain the purpose of the proposed rules.**

The proposed rules will update the vehicle inspection programs in the Portland and Medford areas to meet new federal Environmental Protection Agency (EPA) requirements. The major program changes include the upgrading from manual to computerized exhaust pollution testing equipment, revising the process of training and certifying DEQ vehicle inspectors and developing a more comprehensive quality assurance system for program operations. The revised program must be in full operation before July 1, 1994 as mandated by EPA.

**2. Do the proposed rules affect existing rules, programs or activities that are considered land use programs in the DEQ State Agency Coordination (SAC) Program?**

Yes \_\_\_ No X

**a. If yes, identify existing program/rule/activity:**

N/A

**b. If yes, do the existing statewide goal compliance and local plan compatibility procedures adequately cover the proposed rules?**

Yes \_\_\_ No \_\_\_ (if no, explain):

N/A

**c. If no, apply the following criteria to the proposed rules.**

Staff should refer to Section III, subsection 2 of the SAC document in completing the evaluation form. Statewide Goal 6 - Air, Water and Land Resources is the primary goal that relates to DEQ authorities. However, other goals may apply such as Goal 5 - Open Spaces, Scenic and Historic Areas, and Natural Resources; Goal 11 - Public Facilities and Services; Goal 16 - Estuarine Resources; and Goal 19 - Ocean Resources. DEQ programs or rules that relate to statewide land use goals are considered land use programs if they are:

1. Specifically referenced in the statewide planning goals; or
2. Reasonably expected to have significant effects on
  - a. resources, objectives or areas identified in the statewide planning goals, or
  - b. present or future land uses identified in acknowledged comprehensive plans.

In applying criterion 2. above, two guidelines should be applied to assess land use significance:

- The land use responsibilities of a program/rule/action that involves more than one agency, are considered the responsibilities of the agency with primary authority.
- A determination of land use significance must consider the Department's mandate to protect public health and safety and the environment.

**In the space below, state if the proposed rules are considered programs affecting land use. State the criteria and reasons for the determination.**

It has previously been determined through the DEQ SAC program that the Vehicle Inspection Program is not a program that significantly affects land use. These proposed rules, which address training and quality assurance system changes, do not contain program changes that significantly affect land use.

3. **If the proposed rules have been determined a land use program under 2. above, but are not subject to existing land use compliance and compatibility procedures, explain the new procedures the Department will use to ensure compliance and compatibility.**

N/A

Air Quality Division

\_\_\_\_\_  
Division

\_\_\_\_\_  
Intergovernmental Coord.

\_\_\_\_\_  
Date

PRESIDING OFFICER'S REPORT ON PUBLIC HEARING  
I & M

## Testimony References

## Public Testimony Given in Portland

<u>No.</u>	<u>Oral Testimony</u>	<u>Written Comment</u>	<u>Name and Affiliation</u>
P1	Yes	No	Joe Bernard
P2	Yes	No	Dennis Lamb Manager of Planning Unocal Corporation

## Public Testimony Given in Medford

M1	Yes	No	Hank Singmaster Certified Master Auto Technician
M2	Yes	No	Wally Skyrman Patient Representative Southern Oregon Regional Board of the American Lung Association

SUMMARY OF HEARING TESTIMONY  
ON REVISIONS TO THE MOTOR VEHICLE EMISSION CONTROL INSPECTION  
TEST CRITERIA, METHODS AND STANDARDS

1. P1  
Enhanced or improved emissions testing will be expensive, will take about five times as long as current inspections to perform, and will cause longer lines at inspection stations.

2. P1  
Enhanced or improved air emissions testing will be costly to consumers.

3. P2  
No workshops or discussion sessions held to develop modifications to Vehicle Inspection and Maintenance Program.

3. P2  
Carbon monoxide emissions for light duty vehicles increased under new plan. Most reduction benefits come from the anti-tampering program and the fact that DEQ includes heavy duty gas vehicles in the I & M program.

4. P2  
The mobile model is influenced by RVP in both winter and summer. RVP numbers used in DEQ's model are questionable. DEQ's assumptions of no ethanol RVP waiver and no summer use of ethanol are also questionable. Medford RVP numbers of 8.1 pounds per square inch in the wintertime are incorrect as is the assumed ambient summer temperature in Portland of 90 degrees. Performance calculations should be reexamined.

5. P2  
EPA requires no NOx increase for the program. The use of oxygenated fuel tends to increase NOx. This issue is not addressed in the rulemaking package.

6. M1  
Training of technicians at test centers should be improved.

7. M1  
Emissions figures are too lenient. Too often, poorly maintained cars pass inspection.

MISCELLANEOUS COMMENTS

1. M2  
DEQ should use mobile infrared monitoring to help control carbon monoxide pollution from automobiles.

2. M1  
Frequently, cars have not been looked over comprehensively during inspection. Cars should be inspected for defective, missing equipment.



3.

M1

DEQ should take a more proactive role in educating the public about car maintenance. Often people have no idea of the qualifications of the person working on their car.

WRITTEN COMMENTS RECEIVED



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10  
1200 Sixth Avenue  
Seattle, Washington 98101

AUG 17 1993

Reply To  
Attn Of: AT-082

Jerry Coffey  
Department of Environmental  
Quality  
Air Quality Division  
1301 S.E. Morrison  
Portland, Oregon 97214

Dear Mr. Coffey:

Enclosed is the review for the Oregon State Department of Environmental Quality (DEQ) July 1993 draft State Implementation Plan (SIP) revision for the Vehicle Inspection Program. The purpose of this letter is to transmit comments on the draft rule and SIP amendment regarding operation of DEQ's Vehicle Inspection Program in the Medford and Portland areas. Additional comments may surface after the official state submittal is received and a formal review of the final document is conducted.

Thank you for the opportunity to comment on the package. Please call me at (206) 553-1814 if you need any clarification regarding the comments. I hope you find the comments useful in preparing your final Vehicle Inspection Program.

Sincerely,

A handwritten signature in cursive script that reads "Christi Lee".

Christi Lee  
Air Programs Development Section

Enclosure

ENCLOSURE

**Inspection and Maintenance Comments:**

The following are comments on Oregon's draft Inspection and Maintenance (I/M) State Implementation Plan (SIP) revision submitted July 1993.

- It would be helpful if a description of the test network and a map of the geographic boundaries was included in the SIP submittal. (§51.350 of EPA's rule)
- I was unable to determine if the SIP required the I/M program to remain in effect until a redesignation was made which would demonstrate that the area could maintain the standard for the maintenance period without the emission reductions attributable to the I/M program. There should be a statement to this effect. (§51.350)
- Oregon's I/M rule included the wording in Appendix B(II)(c)(2)(ii) of EPA's rule for two speed idle testing of 1981-1987 model year Fords and 1984-1985 model year Honda Preludes but did not include a provision for 1988-1989 Ford vehicles as allowed. The 1988-1989 Ford vehicles are not required to be tested in this manor but are allowed to be under EPA's rule.
- EPA's rule requires vehicles which are registered in the program area but primarily operated in other I/M areas to be tested, either in the area of primary operation, or in the area of registration. Oregon needs to include this provision in their rule. (§51.356)
- The sections of Oregon's rule addressing Quality Control, Motorist Compliance Enforcement Program oversight, and Quality Assurance need to be submitted before full approval of the SIP can be made.
- Medford needs to provide for enforcement officials other than police to issue citations (e.g., parking meter attendants) to parked vehicles in noncompliance. (§51.361)
- The SIP needs to address the prevention of fraudulent registration of vehicles outside the I/M boundaries (e.g. proof of address changes prior to registration modification). (§51.361)
- The SIP needs to include a description of the plan for testing fleet vehicles, rentals, leased vehicles, federal fleet vehicles, state and local government cars, and other subject vehicles which are operated in, but not necessarily registered in, the I/M area. (§51.361)
- The draft SIP needs to provide enforcement against stations and inspectors as required in EPA's regulation. EPA's rule requires, "In test-only programs, inspectors shall be removed from inspector duty for at least 6 months (or a retainage penalty equivalent to the inspector's salary for that period shall be imposed)". Federal regulation requires the SIP to include a penalty schedule which categorizes and lists violations and penalties associated with each violation. All findings of serious violations of rules or procedural requirements shall result in mandatory fines or retainage. Any finding of inspector incompetence shall result in mandatory training before inspection

privileges are restored. A provision for the maintenance of enforcement records and activities also needs to be included. (§51.364)

- The SIP needs to contain a commitment to collect all data elements listed in section 51.365 of EPA's rule. The reference to appendix G in the SIP to clarify equipment specifications refers to a license survey not the equipment specifications as indicated. (§51.365)

- In the last sentence of the first paragraph of section 5.4.17 of the SIP, substitute with for will and be for by.

- We are aware that DEQ is doing more than they are taking credit for in their SIP. We suggest DEQ include additional information such as provisions as to how the state will follow up on complaints by the public or others involved in the process and how the public can obtain information on warranty covered parts. (§51.368)

- The SIP needs to include a provision for technical assistance related to diagnosis and repair of vehicles that fail the I/M test to the repair industry (e.g. ongoing hot line service to assist technicians with specific repair problems and training for repair technicians.) (§51.369)

- In the last sentence in OAR 340-24-309 section 3, change following to followed.

In addition, the state should pay particular attention to the EPA I/M checklist previously sent to you. EPA will be using the I/M checklist for the final review of the SIP.

## ATTACHMENT E

### DEPARTMENT'S EVALUATION OF PUBLIC COMMENT

The bulk of the significant comments from the public hearings were submitted by the Environmental Protection Agency (EPA). In addition, Dennis Lamb with UNOCAL commented that some of the data input to the Mobile 5A model used to calculate I/M benefits was incorrect. The Department investigated and corrected the noted errors. The Mobile 5A model was re-run and the corrected results included as a part of the final SIP submittal.

EPA's comments dealt primarily with missing elements of the draft SIP that was submitted for public hearing. In subsequent discussions between EPA and the Department, EPA agreed to allow the SIP to remain essentially as submitted with the Department committing to resolve outstanding issues before July 1, 1994.

A summary of the outstanding EPA issues is given below.

- 1) Vehicle Coverage - Vehicles Outside Oregon (40 CFR 51.356(a)(3)): "Subject vehicles which are registered in the program area but are primarily operated in another I/M area shall be tested, either in the area of primary operation, or in the area of registration."

This means, if an Oregon vehicle is re-registered while out of state and operated in an I/M area of that other state, the vehicle will be required to be I/M tested in either Oregon or the other state's I/M area. If the motorist opts to be tested in the other state's I/M program, that vehicle would also have to be retested when it returns to Oregon, since Oregon does not accept I/M tests conducted in other states. This is because of the more stringent Oregon test (i.e. no waivers, equipment checks, etc). This is the current policy for any vehicle which is registered in Oregon when the vehicle is not present in Oregon.

There are also a couple additional difficult issue remaining. At the time of registration of this out of state vehicle, Oregon will need to determine if the motorist's temporary out of state address is within an I/M test area. It would be very difficult to accurately track the I/M boundaries of all I/M states. Also, DEQ is not sure that all other states will allow testing of Oregon vehicles because many states do not now offer reciprocity on registration issues.

The proposed SIP commits the Department to establish a procedure for this testing and incorporate the procedure in the SIP prior to July 1, 1994.

- 2) Vehicle Coverage - Federal Employees (40 CFR 51.356(a)(4)): "Vehicles which are operated on Federal installations located within an I/M program area shall be tested, regardless of whether the vehicles are registered in the state or local I/M area. This requirement applies to all employee-owned or leased vehicles ... as well as agency-owned, leased or operated by civilian and military personnel on Federal installations."

DEQ has three options. The first is to use a procedure where the Vehicle Inspection Program rule merely states that federal installations are responsible for getting these vehicles tested. This approach has been used by state of Virginia. The second approach is to negotiate a procedure for testing these vehicles with each federal facility, and make these procedures a part of the SIP. The third approach is to avoid this area all-together and just not claim the emissions reduction credit for these vehicles.

The proposed SIP commits the Department to establish a procedure for this testing and incorporate the procedure in the SIP prior to July 1, 1994.

- 3) Test Procedures (40 CFR 51.357(e)): "The SIP shall include a description of each test procedure used..."

The Oregon Vehicle Inspection Program (VIP) has a draft analyzer bid specification which contains these procedures. The specifications are scheduled to be complete and dispersed for bids on October 25, 1993. However, the test procedures are expected to change after VIP reviews the prototype unit. Review and procedures update completion is scheduled for April 1, 1994.

The proposed SIP commits the Department to establish these procedures and incorporate them into the SIP prior to July 1, 1994.

- 4) Equipment Specifications (40 CFR 51.358(c)): "The SIP shall include written technical specifications for all test equipment used in the program..."

All of these specifications are contained in the draft bid specifications. As discussed in 1) above, these specifications are not expected to be final before April 1, 1994.

The proposed SIP commits the Department to establish these specifications and incorporate them in the SIP prior to July 1, 1994.

- 5) Quality Control Procedures (40 CFR 51.359(f)): "The SIP shall include a description of quality control and record keeping procedures".

Some of these requirements (specifically the record keeping procedures) are contained in the draft analyzer bid specifications. As discussed in 1) above, these specifications are not expected to be final before April 1, 1994. The quality control procedures will be similar to the existing quality control procedures for the current VIP analyzers. These procedures will be altered to meet new computerized analyzer requirements. Therefore, these procedures also can not be finalized before the prototype equipment is reviewed after April 1, 1994.

The proposed SIP commits the Department to write these procedures and incorporate them in the SIP prior to July 1, 1994.

- 6) Motorist Compliance - Parking Patrol (40 CFR 51.361(a)(4)): "Routinely issue citations to motorists with expired or missing license plates ... and provide for enforcement officials other than police to issue citations (e.g., parking meter attendants) to parked vehicles in noncompliance"

The City of Portland Parking Patrol issues tickets for expired plates. The fine for expired registration is \$25. The City of Medford contracts their parking attendant work to the private firm called Medford Guard. Medford Guard does not have the authority to ticket for expired plates, but whenever they write a parking citation, they check for expired plates. If found, they notify the Medford city police who can issue tickets. The bail for the Medford ticket is \$70 which can be reduced to \$50 depending on driving records. VIP has not yet been able to contact Medford Guard directly to determine if they have written procedures for dealing with expired plates.

Two issues need to be resolved with EPA. First, EPA requires the fine to be a minimum of \$85 for pre-1981 vehicles and \$200 for 1981 and newer vehicles. The fines in both Oregon I/M areas are too low. EPA may accept the lower fines, but DEQ has not yet received EPA response on this item. Second, these two cities represent the bulk of the population of the two Oregon I/M areas, but not all of the population. It may be necessary to involve more towns within the I/M areas. To date the Department has not received final confirmation from either Medford or Portland committing their programs to be placed in the SIP.

The proposed SIP commits the Department to resolve this issue and incorporate the results in the SIP prior to July 1, 1994.

- 7) Motorist Compliance - Penalties (40 CFR 51.361(5)): "Structure the penalty system to deter non-compliance with the registration requirement through the use of mandatory minimum fines .. and through a requirement that compliance be demonstrated before a case can be closed"

There are two general ways motorists can avoid the I/M test. The first is by failing to register a vehicle. This is discussed above in 6) where existing fines may not be



adequate. The second is by falsifying registration information so that DMV will not require a test. This is generally done by falsely claiming that the vehicle owner lives outside the test area. The maximum fine for falsifying registration information is \$2500 and/or one year in prison. This fine is adequate, however, EPA requires a minimum fine as discussed in 6). EPA has compromised the minimum requirement by stating they will accept an average fine which is greater than their stated minimums. However, DMV seldom, if at all, enforces the DMV statutes regarding falsifying registration, because imposition of a fine requires a court proceeding. This may not be acceptable to EPA. DMV has suggested that DEQ attempt to obtain authority for civil penalties to avoid the packed court system. This would likely require a DEQ statute change which could not be done before the 1995 legislative session.

The proposed SIP commits the Department to resolve this issue and incorporate the results in the SIP prior to July 1, 1994.

- 8) Motorist Compliance - Exemption Proof (40 CFR 51.361(a)(8)): "Prevent the fraudulent initial classification or reclassification of a vehicle from subject to non-subject or exempt by requiring proof of address changes prior to registration record modification, and documentation from the testing program ... certifying based on a physical inspection that the vehicle is exempt"

EPA requires documentation for new registration and re-registration for motorist registering outside the test area that the registration address is outside the test area. EPA suggests this proof could be a property tax statement or a utility bill. DMV says handling this additional paper work would be very expensive and if originals are required to be shown, this may cause motorist to register at their local DMV office rather than the more efficient and currently common means via the mail.

The proposed SIP commits the Department to resolve this issue and incorporate the results in the SIP prior to July 1, 1994.

- 9) Motorist Compliance - Tracking Time Extensions (40 CFR 51.361(a)(9)): "Limit and track the use of time extensions of the registration requirement to prevent repeated extensions"

DMV currently limits the time extensions to 120 days, but does not track motorists who apply for extensions. To initiate computer tracking would likely have to wait until the new DMV computer systems is complete in September 1997. Other means of tracking will be explored.

The proposed SIP commits the Department to resolve this issue and incorporate the results in the SIP prior to July 1, 1994.

- 10) Motorist Compliance - Out of State Vehicles (40 CFR 51.361(a)(11)): "Limit and track exemptions to prevent abuse of the exemption policy for vehicles claimed to be out-of-state"

DMV currently requires I/M area vehicles which are out of state to complete a "Vehicle Outside Of Oregon" form which allows the motorist to register the vehicle without a test. When the vehicle re-enters Oregon, the motorist is required to have the I/M test done and the I/M test certification is to be sent to DMV. However, DMV does not track these vehicles. In the past, DMV notified DEQ when a vehicle was registered under this provision. However, DEQ requested the notification be discontinued because DEQ was unable to track the untested vehicles. Such tracking could potentially be accomplished with the new DMV computer system by September 1997. Other means of tracking will be explored.

The proposed SIP commits the Department to resolve this issue and incorporate the results in the SIP prior to July 1, 1994.

- 11) Motorist Compliance - Moving into I/M Area (40 CFR 51.361(a)(12)): "Encourage enforcement of vehicle registration transfer requirements when vehicle owners move into the I/M area by coordinating with local and state enforcement agencies and structuring other activities (e.g., drivers license issuance) to effect registration transfers."

This EPA regulation appears to require that drivers license address be the same as vehicle registration address. Currently, in Oregon the vehicle is to be registered where it is driven, not necessarily at the address shown on the motorists driver's license. This may require statutory changes which could not be accomplished prior to the 1995 legislative session. Comparison of drivers license address and registration address may also require that the new DMV computer system be completed, schedule for September 1997. Other means enforcement will be explored.

The proposed SIP commits the Department to resolve this issue and incorporate the results in the SIP prior to July 1, 1994.

- 12) Motorist Compliance - Fleet Vehicles Not Registered in I/M Area (40 CFR 51.361(c)(1)(iv)): "A description of the plan for testing fleet vehicles, rental car fleets, leased vehicles, and any other subject vehicles, e.g., those operated in (but not necessarily registered in) the program area."

The requirement to test vehicles not registered in the I/M areas appears to require statutory change to allow DMV to withhold registration from these vehicles until the vehicle has been I/M tested. This could not be accomplished before the 1995 legislative session. The alternative to this is to not test these vehicles and take

reduction in emission reduction credits. EPA has said this is an acceptable alternative.

The proposed SIP commits the Department to resolve this issue and incorporate the results in the SIP prior to July 1, 1994.

- 13) Motorist Compliance - Verification of Exempt Vehicles (40 CFR 51.362(a)(1)&(6)):  
"Verification of exempt vehicle status by inspecting and confirming such vehicles by the Program or its delegate"

Currently neither VIP nor DMV has a process to verify exemption. EPA suggests this can be done by requiring either a utility bill with the outside I/M area address or a copy of the property tax statement. DMV has said this would be very expensive, and did not indicate a time when this could be set-up. It presumably would not require completion of the DMV computer system.

The proposed SIP commits the Department to resolve this issue and incorporate the results in the SIP prior to July 1, 1994.

- 14) Enforcement Against Vehicle Inspectors (40 CFR 51.364(a)&(a)(1)&(a)(2)&(b)(1)):  
"A penalty schedule shall be developed that establishes minimum penalties for violations of program rules and procedures." "The schedule shall categorize and list violations and the minimum penalties to be imposed for first, second and subsequent violations and for multiple violation of different requirements." "At a minimum,... inspector ... suspension shall be imposed for at least 6 months whenever a vehicle is intentionally improperly passed for any required portion of the test." "The quality assurance officer shall have the authority to temporarily suspend ... inspector licenses"

The Department currently does not have a penalty schedule, but instead has a "Discipline and Discharge" procedure in the American Federation of State County and Municipal Employees (AFSCME) union contract. EPA has not yet determined if this is acceptable. To change the process to assess specific penalties for specific violation would require a change in the AFSCME contract. Both AFSCME and the DEQ Human Resources Department have informed VIP that the contract should not be reopened until after June 30, 1994 at the end of the current contract period.

The proposed SIP commits the Department to resolve this issue and incorporate the results in the SIP prior to July 1, 1994.

- 15) Inspector Training and Testing (40 CFR 51.367 (a)(3)&(b)(3)): "In order to complete the training requirement, a trainee shall pass (i.e, a minimum of 80 % of correct responses or lower if an occupational analysis justifies it) a written test covering all

aspects of the training." "Inspector licenses and certificates shall be valid for no more than 2 years, at which point refresher training and testing shall be required prior to renewal. Alternative approaches based on more comprehensive skill examination and determination of inspector competency may be used."

VIP currently trains and tests inspectors prior to placing them at the test station. However, biennial retesting with the possibility of inspector license removal is not done. The AFSCME Union does not appear to have a problem with transferring inspectors to other DEQ positions if the inspector fails the test. However, the DEQ Human Resources Department needs to consider the impact of inspectors purposely failing the test creating a large number of re-deployed inspectors. EPA has also left retesting open to alternative approaches which VIP may be able to develop.

The proposed SIP commits the Department to resolve this issue and incorporate the results in the SIP prior to July 1, 1994.

- 16) Improving Repair Effectiveness (40 CFR 51.369(a)(2)): "The agency shall provide a hot line service to assist repair technicians with specific repair problems, answer technical questions that arise in the repair process, and answer questions related to the legal requirements of state and federal law with regard to emission control device tampering, engine switching, or similar issues."

VIP currently uses the Inspection Units Supervisors to respond to these type of repair and information problems. However, the Supervisors do little in the area of providing specific repair information except as found in repair manuals. Supervisors are not certified mechanics. EPA has not yet determined if they can accept this level of effort as being sufficient. If not, VIP may need to hire a mechanic to operate the hot line. Approval for this hire can probably be obtained through the E-board within a few months.

The proposed SIP commits the Department to resolve this issue and incorporate the results in the SIP prior to July 1, 1994.

JC:jc  
SIPEVAL

CHANGES TO ORIGINAL RULEMAKING PROPOSAL

MADE IN RESPONSE TO PUBLIC COMMENT

- 1) A number of housekeeping changes were made in the Vehicle Inspection Program rules.
  - a) OAR 340-24-340(9)(c)(B) - "pass" was changed to "passed"
  - b) OAR 340-24-330 and OAR 340-240-335 - were updated to eliminated the use of enforcement tolerance. This does not change the testing standards. Enforcement tolerances were integrated into the standards to reduce confusion.
  - c) OAR 340-24-320(2) - the word "either" was dropped.
  - d) OAR 340-24-309(2)(b)(A) - the word "the" was capitalized at the beginning of the second sentence.
  - e) OAR 340-24-355(1)(a) - date was corrected to November 5, 1992.
  - f) OAR 340-24-355(1)(a)(A) - "to" was deleted
- 2) OAR 340-24-340 and OAR 340-240-335 - catalyst vehicle standards for hydrocarbon emission were updated to be the same as EPA standards. Carbon monoxide standards were not changes to EPA standards of 1.2% since Oregon's 1.0% standard is more stringent.
- 3) OAR 340-24-310(9) and OAR 340-240315(9) - the high idle rpm range was changed to 2800 rpm instead of 2700 rpm to be consistent with EPA rules.
- 4) OAR 340-24-309(3) - the maximum test time was changed to from 305 to 390 to reflect EPA's revised calculation method in which each maximum mode time is multiplied by 1.5 and 10 seconds is added for each mode.
- 5) OAR 340-24-309(3)(a)(B)(iii) - the word "optional" was dropped to make quick fail mandatory.
- 6) OAR 340-24-309(3)(b)(B)(i)(II) - this paragraph was dropped because VIP is allowing fast pass at base standards rather than at half standards.
- 7) OAR 340-24-309(3)(b)(C)(i)(II) - this paragraph was dropped

because VIP is allowing fast pass at base standards rather than at half standards.

- 8) OAR 340-24-309(4) - in several places test timer is replaced by mode timer to be consistent with the test procedure.
- 9) OAR 340-24-309(4)(c)(B) - this sentence was revised to read more clearly.
- 10) OAR 340-24-340(9)(c)(A) - This paragraph was dropped because DEQ does not have the authority to impose a strict penalty schedule on state employees.
- 11) SIP 5.4.1 - a description of the test network and a map of the I/M areas was added. A statement was added that the DEQ will continue its basic program until it is demonstrated that ambient CO and ozone standards can be met without I/M.
- 12) SIP 5.4.2 - the results of the Mobile 5A computer runs was updated. Model input was changed in Appendix B.
- 13) SIP 5.4.6 - DEQ committed to develop a procedure to test vehicles registered in Oregon but driven in another states I/M area. This procedure will be submitted to EPA prior to July 1, 1994.
- 14) SIP 5.4.7 - DEQ committed to develop a computerized vehicle testing procedure and submit it to EPA prior to July 1, 1994.
- 15) SIP 5.4.8 - DEQ committed to develop specifications for computerized testing equipment and submit it to EPA prior to July 1, 1994.
- 16) SIP 5.4.9 - DEQ committed to develop the specifications for quality control and record keeping procedures and submit it to EPA prior to July 1, 1994.
- 17) SIP 5.4.11 - DEQ commits to develop a detailed motorist compliance enforcement mechanism and submit it to EPA prior to July 1, 1994.
- 18) SIP 5.4.12 - DEQ commits to develop a motorist compliance manual and submit it to EPA prior to July 1, 1994.
- 19) SIP 5.4.13 - DEQ commits to develop a quality assurance program and submit it to EPA prior to July 1, 1994.
- 20) SIP 5.4.14 - DEQ commits to resolve enforcement discrepancies and submit resolution to EPA prior to July 1, 1994.
- 21) SIP 5.4.15 - DEQ commits to submit details of data record keeping to EPA prior to July 1, 1994.

- 22) SIP 5.4.17 - DEQ commits to resolve inspector training issues and submit resolution to EPA prior to July 1, 1994.
- 23) SIP 5.4.18 - DEQ's smokey vehicle reporting program was added to SIP. Also, the fact that Oregon provides warranty information to motorist of failed vehicles was added to the SIP.

JC:jc  
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# Environmental Quality Commission

- Rule Adoption Item
- Action Item
- Information Item

Agenda Item F  
October 29, 1993 Meeting

**Title:**

Proposed Adoption of Temporary Rules for the New Air Quality Federal Operating Permit Program to Establish: (1) Permit Fees, and (2) Asbestos Inspection Requirements

**Summary:**

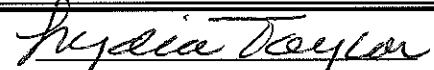
The temporary rule proposal meets the 1990 Clean Air Act requirements for states to have funding mechanisms to fully fund the direct and indirect costs of the Federal Operating Permit Program. The temporary rule proposal will also ensure the Department has the federally required rules in place by November 15, 1993. This will allow the Department to submit the complete Federal Operating Permit Program to the Environmental Protection Agency.

**Department Recommendation:**

The Department recommends that the Commission adopt the temporary rules and related rule amendments regarding the fee structure, procedures for funding the Federal Operating Permit Program, minor housekeeping amendments, and the asbestos survey requirements as presented in Attachment A of the Department Staff Report.

  
Report Author

  
Division Administrator

  
Director

October 12, 1993

†Accommodations for disabilities are available upon request by contacting the Public Affairs Office at (503)229-5317(voice)/(503)229-6993(TDD).



State of Oregon  
Department of Environmental Quality

Memorandum<sup>†</sup>

Date: October 12, 1993

To: Environmental Quality Commission  
From: Fred Hansen, Director *Ryann Taylor*  
Subject: Agenda Item F, October 29, 1993 EQC Meeting

Proposed Adoption of Temporary Rules for the New Air Quality Federal Operating Permit Program to Establish: (1) Permit Fees, and (2) Asbestos Inspection Requirements

**Background**

On September 3, 1993, Governor Roberts signed Senate Bill 86. This bill authorizes the Commission to adopt fee rules for the federally mandated Federal Operating Permit Program. The proposed rules also contain Asbestos Inspection Requirements, amendments to the Enforcement Procedure Rules, and a minor housekeeping amendment to Division 28, Stationary Source Air Pollutant Control and Permitting Procedure Rules.

The following sections summarize the issue that this proposed rulemaking action is intended to address, the authority to address the issue, the process for development of the rulemaking proposal including alternatives considered, a summary of the significant Advisory Committee comments and the changes proposed in response to those comments, a summary of how the rule will work and how it is proposed to be implemented, and a recommendation for Commission action.

**A. Fee Rules**

**Issue this Proposed Rulemaking Action is Intended to Address**

The proposed fee rules are a required element of the Federal Operating Permit Program.

**Relationship to Federal and Adjacent State Rules**

Federal requirements in the Clean Air Act Amendments of 1990 and EPA promulgated regulations, Part 70 of Chapter I of Title 40 of the Code of Federal Regulations on June,

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<sup>†</sup>Accommodations for disabilities are available upon request by contacting the Public Affairs Office at (503)229-5317(voice)/(503)229-6993(TDD).

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29, 1992 [57 FR 32295], provide the framework for these rules. EPA requires states to develop funding mechanisms to fully fund the direct and indirect costs of the Federal Operating Permit Program. The federal requirements also include a provision for businesses subject to the program to fund the program. The proposed temporary rules contain a fee structure that meets these federal requirements.

#### **Authority to Address the Issue**

Senate Bill 86, signed by the Governor on September 3, 1993, requires the Commission to adopt such rules.

#### **Process for Development of the Rulemaking Proposal (including alternatives considered)**

Department staff based these rules on the Interim Emission Fee Rules, adopted by the Commission in January, 1992. Department staff worked with the Air Quality Industrial Source Advisory Committee in developing these rules. The Department considered developing entirely new rules. However, the Interim Emission Fee Rules have worked well and staff decided to use the two year's of experience gained in implementing those rules to develop the proposed temporary fee rules.

#### **Summary of Rulemaking Proposal Presented for Public Hearing and Discussion of Significant Issues Involved.**

The proposed temporary rules are a required element of the Federal Operating Permit Program submittal package due to EPA before November 15, 1993. In order to meet this federal deadline, the Department recommends that the Commission adopt these rules at their October 29, 1993 meeting. The Department will then take the rules out to public hearing and return to the Commission in 1994 proposing permanent rule adoption.

#### **Summary of Significant Public Comment and Changes Proposed in Response**

The Department's Air Quality Industrial Source Advisory Committee made numerous comments. Department staff amended the draft rules in response to these comments.

The rules allow major sources to elect to pay emission fees based on either actual emissions or on the permitted emission levels. Industrial Advisory Committee members

expressed concern with quantification of hazardous air pollutants for actual emission reporting. Many hazardous air pollutants will be regulated for the first time and methods do not exist for testing and quantifying these pollutants. Therefore, the Department proposes a rule, OAR 340-28-2560(4), that allow sources to use the best available methods for quantifying these pollutants, until applicable methods become available. At the Advisory Committee's recommendation, the Department will flag this rule for public comment during the public notice period. At the October 4, 1993 meeting of the Advisory Committee the members in attendance reached a consensus in supporting the proposed temporary fee rules.

Department staff will review and verify emission reports submitted by owners or operators of major sources. The review and verification will be performed in accordance with rule procedures and criteria.

An informational packet was sent to the thirteen members of what was the Asbestos Advisory Board, which is now an informal advisory group. The packet included an explanation of the need for rule making and a copy of the draft rule. The Department received comment from the previous chairman, David Butts. Mr. Butts' comment was that the temporary rule seemed serviceable until a permanent rule could be enacted.

### **Summary of How the Proposed Rule Will Work and How it Will be Implemented**

All of the following are proposed as temporary fee rules.

#### **Supplemental Interim Emission Fees**

The 1991 Legislature authorized the collection of Interim Emission Fees for 1991 and 1992 calendar year emissions. Rules adopted by the Commission in January 1992 provided the framework for calculating the Interim Emission Fees.

The 1993 Legislature authorized collection of supplemental emission fees of \$10.50 per ton based on 1992 calendar year emissions. When combined with the already established Interim Emission Fee, the total fee will be \$23.50 per ton. The proposed temporary rules contain procedures for the Department to use to assess and collect this fee. Sources subject to the Interim Emission Fee Program have already reported emissions for 1992 and the Department will use these reports as the basis for assessing this supplemental fee. The Department will send invoices for the Supplemental

Interim Emission Fee in December of 1993 with payment due in early 1994.

#### Permanent Emission Fee

SB 86 authorizes an emission fee of \$25 (in 1989 dollars) per ton. In addition to the \$25 per ton, SB 86 also authorizes the Commission to annually increase the \$25 per ton fee by the Consumer Price Index (CPI), if necessary. Based on the Consumer Price Indexes issued since 1989, including the CPI issued on September 1, 1993, the emission fee is \$29.26. Based on the Federal Operating Permit Program Budget, prepared by the Department and approved by the 1993 Legislature, an emission fee of \$29.26 is necessary to cover all reasonable direct and indirect costs of implementing the Federal Operating Permit Program. In accordance with SB 86, this fee becomes effective one year from the date the Department submits the Federal Operating Permit Program to the Environmental Protection Agency. The Department plans to submit the program by November 15, 1993.

The proposed temporary rules allow sources to elect to pay emission fees on either permitted levels (Plant Site Emission Limit (PSEL)) or on actual emissions. If a source elects to report actual emissions as the basis for fees, the rules provide criteria to determine actual emissions.

#### Annual Base Fee

In accordance with SB 86, all businesses subject to the Federal Operating Permit Program will be assessed an annual base fee of \$2,500 (in 1993 dollars). This fee is also subject to the CPI and the Department may return to the Commission in future years if additional fees are necessary to support the program. This fee is also effective one year from the date the Department submits the Federal Operating Permit Program to the Environmental Protection Agency.

#### User Based Activity Fees

The proposed temporary rules also provide a schedule of fees for major sources subject to the Federal Operating Permit Program and for sources subject to the Air Contaminant Discharge Permit Program (ACDP). The User Based Activity Fees are for the following:

1. New Source Review and Issuance,
2. Source Impact Modeling,
3. Permit modifications,
4. Elective permits and annual compliance fees for synthetic minor sources, and
5. Ambient air monitoring.

The above Activity Fees apply to two types of sources, sources with criteria pollutant emissions and sources with hazardous air pollutant emissions. The Department proposes the above fees become effective for major sources with criteria pollutant emissions upon filing the proposed rules with the Secretary of State. The Department proposes that the following fees become effective for major sources with Hazardous Air Pollutant emissions one year from the date the Department submits the Federal Operating Permit Program to EPA: New Source MACT determinations, and Hazardous Air Pollutant permit modifications. Where there is more than one fee level for a specific activity, the Department will determine the appropriate fee level.

#### Amendments to Enforcement Rules

Minor amendments are proposed to the Department's enforcement rules. The proposed changes to OAR 340-14-050, Enforcement Procedures and Civil Penalties for Air, extend the enforcement violations from "interim" emission fee violations to include both violations of the Interim Emission Fee Rules and violations of all the proposed temporary fee rules.

#### Amendment to Federal Operating Permit Program Rules

In preparing the federally required Attorney General's Opinion certifying that Oregon has full authority to implement the Federal Operating Permit Program, the Attorney General's office identified additional rule language needed to provide full authority. The proposed rules include an amendment to OAR 340-28-2000(2)(b). This amendment covers situations where the Department fails to take a final permit action. It allows an applicant to file a petition for judicial review any time before the Department denies the permit or issues the final permit. It is modeled after the federal rule 40 CFR Part 70.4(b)(3)(xii) (July 21, 1992).

#### Affected Major Sources

The operating permit program, as required by federal law, will apply to major sources, as follows:

1. Air toxics sources with the potential to emit 10 tons per year (tpy), or more, of any hazardous air pollutant; 25 tpy, or more, of any combination of hazardous air pollutants.
2. Sources of air pollutants with the potential to emit 100 tpy, or more, of any pollutant.
3. Smaller sources in some non-attainment areas (no currently applicable areas in Oregon).
4. Affected sources under the acid rain provisions.
5. Any source required to have a preconstruction review permit pursuant to the requirements of the Prevention of Significant Deterioration (PSD) program or the non-attainment area, New Source Review (NSR) program.
6. Any other stationary source in a category the Department proposes, in whole or in part. (no other categories proposed currently)

A major source is defined in terms of all emissions units under common control at the same plant site (i.e., within a contiguous area in the same major group, two-digit, industrial classification or supporting the major group industrial classification).

## **B. Asbestos Inspection Requirements**

### **Issue this Proposed Rulemaking Action is Intended to Address**

In order to have a fully approvable Federal Operating Permit Program submittal, the Department must have the authority to include all federally applicable requirements in permits. One of these requirements is the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Asbestos. While the Commission's existing asbestos rules meet or exceed the federal requirements in most respects, the rules do not include one provision of the federal Asbestos NESHAP relating to asbestos surveys prior to demolition.

### **Relationship to Federal and Adjacent State Rules**

The proposed rule is equivalent to the federal requirements. To receive delegation of a NESHAP program, states must adopt rules which are at least as stringent as the federal rules.

### **Authority to Address the Issue**

ORS 468A.300 through 468A.330 provide authority to adopt the Federal Operating Permit Program, including emission standards and requirements which are necessary for approval of the program.

### **Process for Development of the Rulemaking Proposal (including alternatives considered)**

The Department based the proposal on the federal Asbestos NESHAP in response to comments from the Environmental Protection Agency. The proposed survey requirements would apply only to sources subject to the Federal Operating Permit Program. The federal Asbestos NESHAP, however, requires pre-demolition surveys for all public and commercial buildings, including sources which are deferred from Title V permitting. The Department considered extending the survey requirements to all sources subject to the federal Asbestos NESHAP, but rejected that alternative because the lack of legislative authority to require surveys from sources which are not subject to Title V.

### **Summary of Rulemaking Proposal Presented for Public Hearing and Discussion of Significant Issues Involved.**

The proposal requires asbestos surveys prior to any demolition or renovation at a Title V source. If asbestos is found during the survey, the proposal requires sources to follow existing asbestos abatement requirements. If no asbestos is found, the proposal requires sources to submit a notification of demolition to the Department at least 10 days prior to demolition. This requirement is equal to the federal provision. No fee is proposed for the notification of demolition.

### **Summary of Significant Public Comment and Changes Proposed in Response**

The proposed temporary rules are a required element of the Federal Operating Permit Program submittal package due to EPA before November 15, 1993. In order to meet

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this federal deadline, the Department recommends that the Commission adopt these rules as an emergency action at their October 29, 1993 meeting. The Department will then take the rules out to public hearing and return to the Commission in 1994 proposing permanent rule adoption.

#### **Summary of How the Proposed Rule Will Work and How it Will be Implemented**

The proposed rule specifies requirements for the survey and the contents of the notification. The requirements will be specified in Title V permits and implemented through the Title V permit program.

#### **Recommendation for Commission Action**

It is recommended that the Commission adopt the temporary rules/rule amendments regarding the fee structure and procedures for funding the Federal Operating Permit Program as well as the asbestos survey requirements as presented in Attachment A of the Department Staff Report.



Attachments

- A. Rule and Rule Amendments Proposed for Adoption
- OAR 340-28-110.....(pages 1-20)  
(Amendments to Rule Definitions)
  - OAR 340-28-1720, 340-28-1730, and 340-28-1750..... (pages 21-35)  
(Amendments to Existing Fee Rules)
  - OAR 340-28-2200.....(pages 36-39)  
(Amendment to Federal Operating Permit Rule)
  - OAR 340-28-2560 through 340-28-2720.....(pages 39-51)  
(New Federal Operating Permit Fees)
  - OAR 340-14-050.....(pages 52-54)  
(Amendments to Enforcement Procedures and Civil Penalties, Air  
Quality Classification of Violations)
  - OAR 340-32-5590 and 340-32-5610 .....(pages 55-59)  
(Asbestos Survey Requirements)
- B. Supporting Procedural Documentation:
1. Legal Notice of Hearing
  2. Public Notice of Hearing (Chance to Comment)
  3. Rulemaking Statements (Statement of Need)
  4. Fiscal and Economic Impact Statement
  5. Land Use Evaluation Statement
  6. Letter from Assistant Attorney General Shelley K. McIntyre to DEQ  
Director Fred Hansen regarding Temporary Rule Adoption
- C. Advisory Committee Membership
- D. Rule Implementation Plan

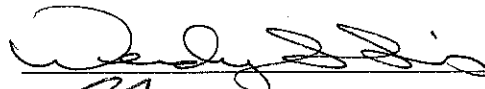
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**Reference Documents (available upon request)**

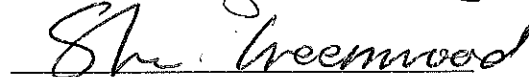
- Enrolled Senate Bill 86, 67th Oregon Legislative Assembly-1993 Regular Session.
- ORS 468A.300 through 468A.330.
- Final EPA permit program rules, 57 Federal Register 32,250 (July 21, 1992), codified at 40 CFR Part 70.
- Federal Clean Air Act Amendments of 1990, 42 USC Sections 7661 et seq.
- EPA Guidance Memorandum, "Reissuance of Guidance on Agency Review of State Fee Schedules for Operating Permit Programs Under Title V", John S. Seitz, Director, EPA Office of Air Quality Planning and Standards, August 4, 1993.
- Federal Asbestos NESHAP, 40 CFR Subpart M.
- Federal Asbestos-Containing Materials in Schools, 40 CFR Subpart E 763.86.

Approved:

Section:



Division:



Report Prepared By: Sara Laumann

Phone: (503) 229-5517

Date Prepared: October 12, 1993

## DIVISION 28

### Definitions

340-28-110 As used in this Division and unless otherwise required by context:

- (1) "Act" or "FCAA" means the Federal Clean Air Act, Public Law 88-206 as last amended by Public Law 101-549.
- (2) "Actual emissions" means the mass rate of emissions of a pollutant from an emissions source during a specified time period. Actual emissions shall be directly measured with a continuous monitoring system or calculated using a verified emission factor in combination with the source's actual operating hours, production rates, or types of materials processed, stored, or combusted during the selected time period.
  - (a) For purposes of determining actual emissions as of the baseline period:
    - (A) Except as provided in paragraphs (B) and (C) of this subsection, actual emissions shall equal the average rate at which the source actually emitted the pollutant during a baseline period and which is representative of normal source operation;
    - (B) The Department may presume that existing source-specific permitted mass emissions for the source are equivalent to the actual emissions of the source if they are within 10% of the calculated actual emissions;
    - (C) For any newly permitted emissions source which had not yet begun normal operation in the baseline period, actual emissions shall equal the potential to emit of the source. (Renumbered from OAR 340-20-305(1))
  - (b) For purposes of determining actual emissions for Emission Statements under OAR 340-28-1500 through 340-28-1520, ~~and~~ Major Source Interim Emission Fees under OAR 340-28-2400 through 340-28-2550, and Federal Operating Permit Fees under OAR 340-28-2560 through 340-28-2720, actual emissions include, but are not limited to, routine process emissions, fugitive emissions, excess emissions from maintenance, startups and shutdowns, equipment malfunction, and other activities. (Renumbered from OAR 340-20-460(1))
  - ~~[(c) For purposes of determining actual emissions in the calculation of fees for a federal operating permit program source, actual emissions shall equal the actual rate of emissions in tons per year of any regulated air pollutant emitted from the source over the preceding calendar year or any other period determined by the~~

~~Department or Lane Regional Air Pollution Authority to be representative of normal source operation and consistent with the fee schedule.]~~

- (3) "Affected source" means a source that includes one or more affected units that are subject to emission reduction requirements or limitations under Title IV of the FCAA.
- (4) "Affected States" mean all States:
  - (a) Whose air quality may be affected by a proposed permit, permit modification or permit renewal and that are contiguous to Oregon; or
  - (b) That are within 50 miles of the permitted source.
- (5) "Aggregate insignificant emissions" means the annual actual emissions of any regulated air pollutant as defined in OAR 340-28-110, for any federal operating permit major source, including the usage of exempt mixtures, up to the lowest of the following applicable level:
  - (a) One ton for each criteria pollutant;
  - (b) 500 pounds for PM<sub>10</sub> in a PM<sub>10</sub> nonattainment area;
  - (c) The lesser of the amount established in OAR 340-32-4500, Table 3, or 1,000 pounds for each Hazardous Air Pollutant;
  - (d) An aggregate of 5,000 pounds for all Hazardous Air Pollutants.
- (6) "Air Contaminant" means a dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon, acid or particulate matter, or any combination thereof.
- (7) "Air Contaminant Discharge Permit" or "ACDP" means a written permit issued, renewed, amended, or revised by the Department, pursuant to OAR 340-28-1700 through 340-28-1790 and includes the application review report. (Renumbered from OAR 340-20-520(17))
- (8) "Applicable requirement" means all of the following as they apply to emissions units in a federal operating permit program source, including requirements that have been promulgated or approved by the EPA through rule making at the time of issuance but have future-effective compliance dates:
  - (a) Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by the EPA through rulemaking under Title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in 40 CFR Part 52;
  - (b) Any standard or other requirement adopted under OAR 340-20-047 of the State of Oregon Clean Air Act Implementation Plan, that is more stringent than the federal standard or requirement which has not yet been approved by the EPA, and other state-only enforceable air pollution control requirements;
  - (c) Any term or condition in an ACDP, OAR 340-28-1700 through 340-28-1790, issued before a federal operating permit application is submitted for the source including any term or condition of any preconstruction permits issued pursuant to OAR 340-28-1900 through 340-28-2000 (New Source Review);
  - (d) Any term or condition in a Notice of Construction and

Approval of Plans, OAR 340-28-800 through 340-28-820, issued before a federal operating permit application is submitted for the source;

- (e) Any standard or other requirement under section 111 of the Act, including section 111(d);
  - (f) Any standard or other requirement under section 112 of the Act, including any requirement concerning accident prevention under section 112(r)(7) of the Act;
  - (g) Any standard or other requirement of the acid rain program under Title IV of the Act or the regulations promulgated thereunder;
  - (h) Any requirements established pursuant to section 504(b) or section 114(a)(3) of the Act;
  - (i) Any standard or other requirement governing solid waste incineration, under section 129 of the Act;
  - (j) Any standard or other requirement for consumer and commercial products, under section 183(e) of the Act;
  - (k) Any standard or other requirement for tank vessels, under section 183(f) of the Act;
  - (l) Any standard or other requirement of the program to control air pollution from outer continental shelf sources, under section 328 of the Act;
  - (m) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless the Administrator has determined that such requirements need not be contained in a federal operating permit; and
  - (n) Any national ambient air quality standard or increment or visibility requirement under part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to section 504(e) of the Act.
- (9) "Assessable Emission" means a unit of emissions for which the major source owner or operator will be assessed a fee. It includes an emission of a pollutant as ~~defined~~ specified in OAR 340-28-2420 or OAR 340-28-2590 from one emission point and from an area within a major source. For routine process emissions, emissions of each pollutant in OAR 340-28-2420 or OAR 340-28-2590 from each emission point included in an ACDP or federal operating program permit shall be an assessable emission. (Renumbered from OAR 340-20-520(2))
- (10) "Baseline Concentration" means:
- (a) the ambient concentration level for sulfur dioxide and total suspended particulate which existed in an area during the calendar year 1978. If no ambient air quality data is available in an area, the baseline concentration may be estimated using modeling based on actual emissions for 1978. The following emission increases or decreases will be included in the baseline concentration:
    - (A) Actual emission increases or decreases occurring before January 1, 1978; and
    - (B) Actual emission increases from any major source or major modification on which construction commenced before January 6, 1975.

- (b) the ambient concentration level for nitrogen oxides which existed in an area during the calendar year 1988. (Renumbered from OAR 340-20-225(2))
- (11) "Baseline Emission Rate" means the average actual emission rate during the baseline period. Baseline emission rate shall not include increases due to voluntary fuel switches or increased hours of operation that have occurred after the baseline period. (Renumbered from OAR 340-20-305(2))
- (12) "Baseline Period" means either calendar years 1977 or 1978. The Department shall allow the use of a prior time period upon a determination that it is more representative of normal source operation. (Renumbered from OAR 340-20-305(3))
- (13) "Best Available Control Technology" or "BACT" means an emission limitation, including, but not limited to, a visible emission standard, based on the maximum degree of reduction of each air contaminant subject to regulation under the Act which would be emitted from any proposed major source or major modification which, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such air contaminant. In no event, shall the application of BACT result in emissions of any air contaminant which would exceed the emissions allowed by any applicable new source performance standard or any standard for Hazardous Air Pollutant. If an emission limitation is not feasible, a design, equipment, work practice, or operational standard, or combination thereof, may be required. Such standard shall, to the degree possible, set forth the emission reduction achievable and shall provide for compliance by prescribing appropriate permit conditions. (Renumbered from OAR 340-20-225(4))
- (14) "Calculated Emissions" as used in OAR 340-28-2400 through 340-28-2550 means procedures used to estimate emissions for the 1991 calendar year. (Renumbered from OAR 340-20-520(5))
- (15) "Categorically insignificant activity" means one of the following Departmentally approved activities:
- evaporative and tail pipe emissions from on-site motor vehicle operation;
  - natural gas and distillate oil space heating rated at less than 10 million British Thermal Units/hour;
  - office activities;
  - food service activities;
  - janitorial activities;
  - personal care activities;
  - groundskeeping activities;
  - on-site laundry activities;
  - instrument calibration;
  - pharmaceutical packaging;
  - fire suppression; and
  - blueprint making.
- (16) "Certifying individual" means the responsible person or

- official authorized by the owner or operator of a source who certifies the accuracy of the emission statement.  
(Renumbered from OAR 340-20-460(2))
- (17) "CFR" means Code of Federal Regulations.
- (18) "Class I area" means any Federal, State or Indian reservation land which is classified or reclassified as Class I area. Class I areas are identified in OAR 340-31-120. (Renumbered from OAR 340-20-225(5))
- (19) "Commence" or "commencement" means that the owner or operator has obtained all necessary preconstruction approvals required by the Act and either has:
- (a) Begun, or caused to begin, a continuous program of actual on-site construction of the source to be completed in a reasonable time; or
  - (b) Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the source to be completed in a reasonable time. (Renumbered from OAR 340-20-225(6))
- (20) "Commission" means Environmental Quality Commission.  
(Renumbered from OAR 340-20-145(2))
- (21) "Constant Process Rate" means the average variation in process rate for the calendar year is not greater than plus or minus ten percent of the average process rate.  
(Renumbered from OAR 340-20-520(3))
- (22) "Construction" as used in OAR 340-28-1900 through 340-28-2000 and this rule means any physical change including, but not limited to, fabrication, erection, installation, demolition, or modification of an emissions unit, or change in the method of operation of a source which would result in a change in actual emissions. (Renumbered from OAR 340-20-225(7))
- (23) "Continuous Monitoring Systems", ~~as used in OAR 340-28-2400 through 340-28-2550,~~ means sampling and analysis, in a timed sequence, using techniques which will adequately reflect ~~calculated emissions and~~ actual emissions or concentrations on a continuing basis in accordance with the Department's Continuous Monitoring Manual, and includes continuous emission monitoring systems and continuous parameter monitoring systems. (Renumbered from OAR 340-20-520(4))
- (24) "Department"
- (a) as used in OAR 340-28-100 through 340-28-2000 and OAR 340-28-2400 through 340-28-2550 means Department of Environmental Quality; (Renumbered from OAR 340-20-145(1))
  - (b) as used in OAR 340-28-2100 through 340-28-2320 and OAR 340-28-2560 through 340-28-2720 means Department of Environmental Quality or in the case of Lane County, Lane Regional Air Pollution Authority.
- (25) "Director" means the Director of the Department or the Director's designee.
- (26) "Draft permit" means the version of a federal operating permit for which the Department or Lane Regional Air Pollution Authority offers public participation under OAR

- 340-28-2290 or the EPA and affected State review under OAR 340-28-2310.
- (27) "Effective date of the program" means the date that the EPA approves the federal operating permit program submitted by the Department on a full or interim basis. In case of a partial approval, the "effective date of the program" for each portion of the program is the date of the EPA approval of that portion.
- (28) "Emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.
- (29) "Emission" ~~[as used in OAR 340-28-2400 through 340-28-2550, Major Source Interim Emission Fees,]~~ means a release into the atmosphere of any regulated pollutant or air contaminant. (Renumbered from OAR 340-20-520(7))
- (30) "Emission Estimate Adjustment Factor" or "EEAF" means an adjustment applied to an emission factor to account for the relative inaccuracy of the emission factor. (Renumbered from OAR 340-20-520(8))
- (31) "Emission Factor" means an estimate of the rate at which a pollutant is released into the atmosphere, as the result of some activity, divided by the rate of that activity (e.g., production or process rate). Sources shall use an EPA or Department approved emission factor. (Renumbered from OAR 340-20-460(3))
- (32) "Emission Limitation" and "Emission Standard" mean a requirement established by a State, local government, or the Administrator of the EPA which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction. (Renumbered from OAR 340-20-225(8))
- (33) "Emission Reduction Credit Banking" means to presently reserve, subject to requirements of these provisions, emission reductions for use by the reserver or assignee for future compliance with air pollution reduction requirements. (Renumbered from OAR 340-20-225(9))
- (34) "Emission Reporting Form" means a paper or electronic form developed by the Department that shall be completed by the permittee to report calculated emissions, actual emissions or permitted emissions for interim emission fee assessment purposes. (Renumbered from OAR 340-20-520(10))
- (35) "Emissions unit" means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant.
- (a) A part of a stationary source is any machine,



equipment, raw material, product, or byproduct which produces or emits air pollutants. An activity is any process, operation, action, or reaction (e.g., chemical) at a stationary source that emits air pollutants. Except as described in section (d) of this definition, parts and activities may be grouped for purposes of defining an emissions unit provided the following conditions are met:

- (A) the group used to define the emissions unit may not include discrete parts or activities to which a distinct emissions standard applies or for which different compliance demonstration requirements apply, and
  - (B) the emissions from the emissions unit are quantifiable.
- (b) Emissions units may be defined on a pollutant by pollutant basis where applicable.
  - (c) The term emissions unit is not meant to alter or affect the definition of the term "unit" for purposes of Title IV of the FCAA.
  - (d) Parts and activities shall not be grouped for purposes of determining emissions increases from an emissions unit under OAR 340-28-1930 or OAR 340-28-1940 or for purposes of determining the applicability of any New Source Performance Standard (NSPS).
- (36) "EPA" or "Administrator" means the Administrator of the United States Environmental Protection Agency or the Administrator's designee.
  - (37) "Event" means excess emissions which arise from the same condition and which occur during a single calendar day or continue into subsequent calendar days. (Renumbered from OAR 340-20-355(1))
  - (38) "Excess emissions" means emissions which are in excess of a permit limit or any applicable air quality rule. (Renumbered from OAR 340-20-355(2))
  - (39) "Federal Land Manager" means with respect to any lands in the United States, the Secretary of the federal department with authority over such lands. (Renumbered from OAR 340-20-225(11))
  - (40) "Federal operating permit" means any permit covering a federal operating permit program source that is issued, renewed, amended, or revised pursuant to OAR 340-28-2100 through 340-28-2320.
  - (41) "Federal operating permit program" means a program approved by the Administrator under 40 CFR Part 70 (last amended by 57 FR 32295, July 21, 1992).
  - (42) "Federal operating permit program source" means any source subject to the permitting requirements, OAR 340-28-2100 through 340-28-2320, as provided in OAR 340-28-2110.
  - (43) "Final permit" or "permit" means the version of a federal operating permit issued by the Department or Lane Regional Air Pollution Authority that has completed all review procedures required by OAR 340-28-2200 through 340-28-2320.
  - (44) "Fugitive Emissions":
    - (a) except as used in subsection (b) of this section, mean emissions of any air contaminant which escape to the

- atmosphere from any point or area that is not identifiable as a stack, vent, duct, or equivalent opening. (Renumbered from OAR 340-20-225(12))
- (b) as used to define a major federal operating permit program source, mean those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.
- (45) "General permit" means a federal operating permit that meets the requirements of OAR 340-28-2170.
- (46) "Growth Increment" means an allocation of some part of an airshed's capacity to accommodate future new major sources and major modifications of sources. (Renumbered from OAR 340-20-225(13))
- (47) "Immediately" means as soon as possible but in no case more than one hour after the beginning of the excess emission period. (Renumbered from OAR 340-20-355(3))
- (48) "Insignificant Activity" means an activity or emission that the Department has designated as categorically insignificant, insignificant mixture usage, or aggregately insignificant.
- (49) "Insignificant Change" means an off-permit change defined under OAR 340-28-2220(2)(a) to either a significant or an insignificant activity which:
- (a) does not result in a redesignation from an insignificant to a significant activity;
  - (b) does not invoke an applicable requirement not included in the permit; and
  - (c) does not result in emission of regulated air pollutants not regulated by the source's permit.
- (50) "Insignificant Mixture Usage" means use, consumption, or generation of chemical mixtures containing not more than 1% by weight of any chemical or compound regulated under Division 20 through 32 of this chapter, and not greater than 0.1% by weight of any carcinogen listed in the U.S. Department of Health and Human Service's Annual Report on Carcinogens.
- (51) "Interim Emission Fee" means \$13 per ton for each assessable emission subject to emission fees under OAR 340-28-2420 for calculated, actual or permitted emissions released during calendar years 1991 and 1992. (Renumbered from OAR 340-20-520(12))
- (52) "Large Source" as used in OAR 340-28-1400 through 340-28-1450 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 air pollutant, or which is subject to a National Emissions Standard for Hazardous Air Pollutants (NESHAP). Where PSELS have been incorporated into the ACDP, the PSEL shall be used to determine actual emissions. (Renumbered from OAR 340-20-355(4))
- (53) "Late Payment" means a fee payment which is postmarked after the due date. (Renumbered from OAR 340-20-520(13))
- (54) "Lowest Achievable Emission Rate" or LAER" means that rate of emissions which reflects: the most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the

owner or operator of the proposed source demonstrates that such limitations are not achievable; or the most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent. In no event, shall the application of this term permit a proposed new or modified source to emit any air contaminant in excess of the amount allowable under applicable New Source Performance Standards (NSPS) or standards for hazardous air pollutants. (Renumbered from OAR 340-20-225(14))

(55) "Major Modification" as used in this Division means any physical change or change of operation of a source that would result in a net significant emission rate increase (as defined in OAR 340-28-110) for any pollutant subject to regulation under the Act. This criteria also applies to any pollutants not previously emitted by the source. Calculations of net emission increases shall take into account all accumulated increases and decreases in actual emissions occurring at the source since January 1, 1978, or since the time of the last construction approval issued for the source pursuant to the New Source Review Regulations for that pollutant, whichever time is more recent. If accumulation of emission increases results in a net significant emission rate increase, the modifications causing such increases become subject to the New Source Review requirements, including the retrofit of required controls. (Renumbered from OAR 340-20-225(15))

(56) "Major Source":

(a) as used in OAR 340-28-1900 through 340-28-2000, New Source Review, means a source which emits, or has the potential to emit, any pollutant regulated under the Clean Air Act at a Significant Emission Rate, as defined in this rule. (Renumbered from OAR 340-20-225(16))

(b) as used in OAR 340-28-2100 through 340-28-2320, Rules Applicable to Sources Required to Have Federal Operating Permits, 340-28-2560 through 340-28-2720, Federal Operating Permit Fees, and OAR 340-28-1740, Synthetic Minor Sources, means any stationary source, or any group of stationary sources that are located on one or more contiguous or adjacent properties and are under common control of the same person (or persons under common control), belonging to a single major industrial grouping or are supporting the major industrial group and that are described in paragraphs (A), (B), or (C) of this subsection. For the purposes of this subsection, a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual (U.S. Office of Management and Budget, 1987) or support the major industrial group.

(A) A major source of hazardous air pollutants, which

is defined as:

- (i) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutants which has been listed pursuant to OAR 340-32-130, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well, with its associated equipment, and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or
  - (ii) For radionuclides, "major source" shall have the meaning specified by the Administrator by rule.
- (B) A major stationary source of air pollutants, as defined in section 302 of the Act, that directly emits or has the potential to emit, 100 tpy or more of any regulated air pollutant, including any major source of fugitive emissions of any such pollutant. The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act, unless the source belongs to one of the following categories of stationary source:
- (i) Coal cleaning plants (with thermal dryers);
  - (ii) Kraft pulp mills;
  - (iii) Portland cement plants;
  - (iv) Primary zinc smelters;
  - (v) Iron and steel mills;
  - (vi) Primary aluminum ore reduction plants;
  - (vii) Primary copper smelters;
  - (viii) Municipal incinerators capable of charging more than 250 tons of refuse per day;
  - (ix) Hydrofluoric, sulfuric, or nitric acid plants;
  - (x) Petroleum refineries;
  - (xi) Lime plants;
  - (xii) Phosphate rock processing plants;
  - (xiii) Coke oven batteries;
  - (xiv) Sulfur recovery plants;
  - (xv) Carbon black plants (furnace process);
  - (xvi) Primary lead smelters;
  - (xvii) Fuel conversion plants;

- (xviii) Sintering plants;
- (xix) Secondary metal production plants;
- (xx) Chemical process plants;
- (xxi) Fossil-fuel boilers, or combination thereof, totaling more than 250 million British thermal units per hour heat input;
- (xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (xxiii) Taconite ore processing plants;
- (xxiv) Glass fiber processing plants;
- (xxv) Charcoal production plants;
- (xxvi) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or
- (xxvii) All other stationary source categories regulated by a standard promulgated under section 111 or 112 of the Act, but only with respect to those air pollutants that have been regulated for that category;

- (C) A major stationary source as defined in part D of Title I of the Act, including:
  - (i) For ozone nonattainment areas, sources with the potential to emit 100 tpy or more of VOCs or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tpy or more in areas classified as "serious," 25 tpy or more in areas classified as "severe," and 10 tpy or more in areas classified as "extreme"; except that the references in this paragraph to 100, 50, 25, and 10 tpy of nitrogen oxides shall not apply with respect to any source for which the Administrator has made a finding, under section 182(f)(1) or (2) of the Act, that requirements under section 182(f) of the Act do not apply;
  - (ii) For ozone transport regions established pursuant to section 184 of the Act, sources with the potential to emit 50 tpy or more of VOCs;
  - (iii) For carbon monoxide nonattainment areas
    - (I) that are classified as "serious," and
    - (II) in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tpy or more of carbon monoxide;
  - (iv) For particulate matter (PM<sub>10</sub>) nonattainment areas classified as "serious," sources with the potential to emit 70 tpy or more of PM<sub>10</sub>.
- (c) as used in OAR 340-28-2400 through 340-28-2550, Major Source Interim Emission Fees, means a permitted stationary source or group of stationary sources

located within a contiguous area and under common control or any stationary facility or source of air pollutants which directly emits, or is permitted to emit: (A)

(A) One hundred tons per year or more of any regulated pollutant, or

(B) Fifty tons per year or more of a VOC and is located in a serious ozone nonattainment area. (Renumbered from OAR 340-20-520(14))

- (57) "Material Balance" means a procedure for determining emissions based on the difference in the amount of material added to a process and the amount consumed and/or recovered from a process. (Renumbered from OAR 340-20-520(15))
- (58) "Nitrogen Oxides" or "NO<sub>x</sub>" means all oxides of nitrogen except nitrous oxide. (Renumbered from OAR 340-20-460(4))
- (59) "Nonattainment Area" means a geographical area of the State which exceeds any state or federal primary or secondary ambient air quality standard as designated by the Environmental Quality Commission or the EPA. (Renumbered from OAR 340-20-225(17))
- (60) "Normal Source Operation" means operations which do not include such conditions as forced fuel substitution, equipment malfunction, or highly abnormal market conditions. (Renumbered from OAR 340-20-305(4))
- (61) "Offset" means an equivalent or greater emission reduction which is required prior to allowing an emission increase from a new major source or major modification of a source. (Renumbered from OAR 340-20-225(18))
- (62) "Ozone Season" means the contiguous 3 month period of the year during which ozone exceedances typically occur (i.e., June, July, and August). (Renumbered from OAR 340-20-460(6))
- (63) "Particulate Matter" means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by an applicable reference method in accordance with the Department's Source Sampling Manual, (January, 1992). (Renumbered from OAR 340-20-225(19))
- (64) "Permit" means an Air Contaminant Discharge Permit or a federal operating permit issued pursuant to this Division.
- (65) "Permit modification" means a revision to a permit that meets the applicable requirements of OAR 340-28-1700 through 340-28-1790, OAR 340-28-1900 through 340-28-2000, or OAR 340-28-2240 through 340-28-2260.
- (66) "Permit revision" means any permit modification or administrative permit amendment.
- (67) "Permitted Emissions" as used in OAR 340-28-2400 through 340-28-2550, **and OAR 340-28-2560 through 340-28-2720** means each assessable emission portion of the PSEL. (Renumbered from OAR 340-20-520(18))
- (68) "Permittee" means the owner or operator of the facility, in whose name the operation of the source is authorized by the ACDP or the federal operating permit. (Renumbered from OAR 340-20-355(5))
- (69) "Person" means the United States Government and agencies thereof, any state, individual, public or private corporation, political subdivision, governmental agency,

- municipality, industry, co-partnership, association, firm, trust, estate, or any other legal entity whatsoever.  
(Renumbered from OAR 340-20-145(3))
- (70) "Plant Site Emission Limit" or "PSEL" means the total mass emissions per unit time of an individual air pollutant specified in a permit for a source. The PSEL for a major source may consist of more than one assessable emission.  
(Renumbered from OAR 340-20-305(5))
- (71) "PM<sub>10</sub>"
- (a) when used in the context of emissions, means finely divided solid or liquid material, other than uncombined water, with an aerodynamic diameter less than or equal to a nominal 10 micrometers, emitted to the ambient air as measured by an applicable reference method in accordance with the Department's Source Sampling Manual (January, 1992); (Renumbered from OAR 340-20-520(21))
- (b) when used in the context of ambient concentration, means airborne finely divided solid or liquid material with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured in accordance with 40 CFR Part 50, Appendix J (July, 1992).
- (72) "Potential to emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by the Administrator. This definition does not alter or affect the use of this term for any other purposes under the Act, or the term "capacity factor" as used in Title IV of the Act or the regulations promulgated thereunder. Secondary emissions shall not be considered in determining the potential to emit of a source.
- (73) "Process Upset" means a failure or malfunction of a production process or system to operate in a normal and usual manner. (Renumbered from OAR 340-20-355(6))
- (74) "Proposed permit" means the version of a federal operating permit that the Department or Lane Regional Air Pollution Authority proposes to issue and forwards to the Administrator for review in compliance with OAR 340-28-2310.
- (75) "Regional Authority" means Lane Regional Air Pollution Authority. (Renumbered from OAR 340-20-145(5))
- (76) "Regulated air pollutant" or "Regulated Pollutant":
- (a) as used in OAR 340-28-100 through 340-28-2320 means:
- (A) Nitrogen oxides or any VOCs;
- (B) Any pollutant for which a national ambient air quality standard has been promulgated;
- (C) Any pollutant that is subject to any standard promulgated under section 111 of the Act;
- (D) Any Class I or II substance subject to a standard promulgated under or established by Title VI of the Act; or
- (E) Any pollutant listed under OAR 340-32-130 or OAR 340-32-5400.

(b) as used in OAR 340-28-2400 through 340-28-2550 means PM<sub>10</sub>, Sulfur Dioxide (SO<sub>2</sub>), Oxides of Nitrogen (NO<sub>x</sub>), Lead (Pb), VOC, and Carbon Monoxide (CO); and any other pollutant subject to a New Source Performance Standard (NSPS) such as Total Reduced Sulfur (TRS) from kraft pulp mills and Fluoride (F) from aluminum mills. (Renumbered from OAR 340-20-520(22))

(c) as used in OAR 340-28-2560 through 340-28-2720 means any regulated air pollutant as defined in 340-28-110(81) except the following:

(A) Carbon monoxide;

(B) Any pollutant that is a regulated pollutant solely because it is a Class I or Class II substance subject to a standard promulgated under or established by Title VI of the Federal Clean Air Act; or

(C) Any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under section 112(2) of the Federal Clean Air Act.

- (77) "Renewal" means the process by which a permit is reissued at the end of its term.
- (78) "Resource Recovery Facility" means any facility at which municipal solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing municipal solid waste for reuse. Energy conversion facilities shall utilize municipal solid waste to provide 50% or more of the heat input to be considered a resource recovery facility. (Renumbered from OAR 340-20-225(23))
- (79) "Responsible official" means one of the following:
- (a) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:
    - (A) the facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or
    - (B) the delegation of authority to such representative is approved in advance by the Department or Lane Regional Air Pollution Authority;
  - (b) For a partnership or sole proprietorship: a general partner or the proprietor, respectively;
  - (c) For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of this Division, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of the EPA); or



- (d) For affected sources:
  - (A) The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Act or the regulations promulgated thereunder are concerned; and
  - (B) The designated representative for any other purposes under the federal operating permit program.
- (80) "Secondary Emissions" means emissions from new or existing sources which occur as a result of the construction and/or operation of a source or modification, but do not come from the source itself. Secondary emissions shall be specific, well defined, quantifiable, and impact the same general area as the source associated with the secondary emissions. Secondary emissions may include, but are not limited to:
  - (a) Emissions from ships and trains coming to or from a facility;
  - (b) Emissions from off-site support facilities which would be constructed or would otherwise increase emissions as a result of the construction of a source or modification. (Renumbered from OAR 340-20-225(24))
- (81) "Section 111" means that section of the FCAA that includes Standards of Performance for New Stationary Sources (NSPS).
- (82) "Section 111(d)" means that subsection of the FCAA that requires states to submit plans to the EPA which establish standards of performance for existing sources and provides for the implementation and enforcement of such standards.
- (83) "Section 112" means that section of the FCAA that contains regulations for Hazardous Air Pollutants (HAP).
- (84) "Section 112(b)" means that subsection of the FCAA that includes the list of hazardous air pollutants to be regulated.
- (85) "Section 112(d)" means that subsection of the FCAA that directs the EPA to establish emission standards for sources of hazardous air pollutants. This section also defines the criteria to be used by the EPA when establishing the emission standards.
- (86) "Section 112(e)" means that subsection of the FCAA that directs the EPA to establish and promulgate emissions standards for categories and subcategories of sources that emit hazardous air pollutants.
- (87) "Section 112(r)(7)" means that subsection of the FCAA that requires the EPA to promulgate regulations for the prevention of accidental releases and requires owners or operators to prepare risk management plans.
- (88) "Section 114(a)(3)" means that subsection of the FCAA that requires enhanced monitoring and submission of compliance certifications for major sources.
- (89) "Section 129" means that section of the FCAA that requires the EPA to establish emission standards and other requirements for solid waste incineration units.
- (90) "Section 129(e)" means that subsection of the FCAA that requires solid waste incineration units to obtain federal operating permits.
- (91) "Section 182(f)" means that subsection of the FCAA that requires states to include plan provisions in the State

- Implementation Plan for NO<sub>x</sub> in ozone nonattainment areas.
- (92) "Section 182(f)(1)" means that subsection of the FCAA that requires states to apply those plan provisions developed for major VOC sources and major NO<sub>x</sub> sources in ozone nonattainment areas.
- (93) "Section 183(e)" means that subsection of the FCAA that requires the EPA to study and develop regulations for the control of certain VOC sources under federal ozone measures.
- (94) "Section 183(f)" means that subsection of the FCAA that requires the EPA to develop regulations pertaining to tank vessels under federal ozone measures.
- (95) "Section 184" means that section of the FCAA that contains regulations for the control of interstate ozone air pollution.
- (96) "Section 302" means that section of the FCAA that contains definitions for general and administrative purposes in the Act.
- (97) "Section 302(j)" means that subsection of the FCAA that contains definitions of "major stationary source" and "major emitting facility."
- (98) "Section 328" means that section of the FCAA that contains regulations for air pollution from outer continental shelf activities.
- (99) "Section 408(a)" means that subsection of the FCAA that contains regulations for the Title IV permit program.
- (100) "Section 502(b)(10) change" means a change that contravenes an express permit term but is not a change that:
- (a) would violate applicable requirements;
  - (b) would contravene federally enforceable permit terms and conditions that are monitoring, recordkeeping, reporting, or compliance certification requirements; or
  - (c) is a Title I modification.
- (101) "Section 504(b)" means that subsection of the FCAA that states that the EPA can prescribe by rule procedures and methods for determining compliance and for monitoring.
- (102) "Section 504(e)" means that subsection of the FCAA that contains regulations for permit requirements for temporary sources.
- (103) "Significant Air Quality Impact" means an ambient air quality impact which is equal to or greater than those set out in Table 1. For sources of VOC, a major source or major modification will be deemed to have a significant impact if it is located within 30 kilometers of an ozone nonattainment area and is capable of impacting the nonattainment area.  
(Renumbered from OAR 340-20-225(26))

**Table 1**  
OAR 340-28-110

Significant Ambient Air Quality Impact  
Which is Equal to or Greater Than:

Pollutant Averaging Time

<u>Pollutant</u>	<u>Annual</u>	<u>24-Hour</u>	<u>8-Hour</u>	<u>3-Hour</u>	<u>1-Hour</u>
SO <sub>2</sub>	1.0 ug/m <sup>3</sup>	5 ug/m <sup>3</sup>		25 ug/m <sup>3</sup>	
TSP or PM <sub>10</sub>	.2 ug/m <sup>3</sup>	1.0 ug/m <sup>3</sup>			
NO <sub>2</sub>	1.0 ug/m <sup>3</sup>				
CO			0.5 mg/m <sup>3</sup>		2 mg/m <sup>3</sup>

(Renumbered from OAR 340-20-225(25))

(104) "Significant emission rate" means:

- (a) Emission rates equal to or greater than the following for air pollutants regulated under the Clean Air Act:

**Table 2  
Significant Emission Rates for Pollutants  
Regulated Under the Clean Air Act**

<u>Significant Pollutant</u>	<u>Emission Rate</u>
(A) Carbon Monoxide	100 tons/year
(B) Nitrogen Oxides	40 tons/year
(C) Particulate Matter*	25 tons/year
(D) PM <sub>10</sub>	15 tons/year
(E) Sulfur Dioxide	40 tons/year
(F) VOCs	40 tons/year
(G) Lead	0.6 ton/year
(H) Mercury	0.1 ton/year
(I) Beryllium	0.0004 ton/year
(J) Asbestos	0.007 ton/year
(K) Vinyl Chloride	1 ton/year
(L) Fluorides	3 tons/year
(M) Sulfuric Acid Mist	7 tons/year
(N) Hydrogen Sulfide	10 tons/year
(O) Total reduced sulfur (including hydrogen sulfide)	10 tons/year
(P) Reduced sulfur compounds (including hydrogen sulfide)	10 tons/year

**NOTE:** For the Medford-Ashland Air Quality Maintenance Area, and the Klamath Falls Urban Growth Area, the Significant Emission Rate for particulate matter is defined in **Table 3**.

- (b) For pollutants not listed above, the Department shall determine the rate that constitutes a significant emission rate;
- (c) Any emissions increase less than these rates associated with a new source or modification which would construct within 10 kilometers of a Class I area, and would have an impact on such area equal to or greater than 1 ug/m<sup>3</sup> (24 hour average) shall be deemed to be emitting at a significant emission rate (see **Table 1**).

**Table 3  
OAR 340-28-110**

**Significant Emission Rates for the Nonattainment  
Portions of the Medford-Ashland Air Quality  
Maintenance Area and the Klamath Falls Urban Growth Area**

**Emission Rate**

<u>Air Contaminant</u>	<u>Kilograms</u>	<u>Annual</u> <u>(tons)</u>	<u>Kilogram</u>	<u>Day</u> <u>(lbs)</u>	<u>kilogram</u>	<u>Hour</u> <u>(lbs)</u>
Particulate Matter or PM <sub>10</sub> *	4,500	(5.0)	23	(50.0)	4.6	(10.0)

**Note:** \* For the Klamath Falls Urban Growth Area, the Significant Emission Rates for particulate matter apply to all new or modified sources for which permit applications have not been submitted prior to June 2, 1989; particulate emission increases of 5.0 or more tons per year shall be fully offset, but the application of LAER is not required unless the emission increase is 15 or more tons per year. At the option of owners or operators of sources with particulate emissions of 5.0 or more but, less than 15 tons per year, LAER control technology may be applied in lieu of offsets.

- (105) "Significant Impairment" occurs when visibility impairment in the judgment of the Department interferes with the management, protection, preservation, or enjoyment of the visual experience of visitors within a Class I area. The determination shall be made on a case-by-case basis considering the recommendations of the Federal Land Manager; the geographic extent, intensity, duration, frequency, and time of visibility impairment. These factors will be considered with respect to visitor use of the Class I areas, and the frequency and occurrence of natural conditions that reduce visibility. (Renumbered from OAR 340-20-225(27))
- (106) "Small Source" means any stationary source with a regular ACDP (not a letter permit or a minimal source permit) or a federal operating permit which is not classified as a large source. (Renumbered from OAR 340-20-355(7))
- (107) "Source" means any building, structure, facility, installation or combination thereof which emits or is capable of emitting air contaminants to the atmosphere and is located on one or more contiguous or adjacent properties and is owned or operated by the same person or by persons under common control. (Renumbered from OAR 340-20-225(28))
- (108) "Source category":
- (a) except as used in OAR 340-28-2400 through 340-28-2550, means all the pollutant emitting activities which belong to the same industrial grouping (i.e., which have the same two-digit code) as described in the **Standard Industrial Classification Manual**, (U.S. Office of Management and Budget, 1987). (Renumbered from OAR 340-20-460(9))
  - (b) as used in OAR 340-28-2400 through 340-28-2550, Major Source Interim Emission Fees, **and OAR 340-28-2560 through 340-28-2720, Federal Operating Permit Fees**, means a group of major sources determined by the Department to be using similar raw materials and having equivalent process controls and pollution control equipment. (Renumbered from OAR 340-20-520(23))
- (109) "Source Test" means the average of at least three test runs during operating conditions representative of the period for which emissions are to be determined, conducted

- in accordance with the Department's Source Sampling Manual or other Department approved methods. (Renumbered from OAR 340-20-520(24))
- (110) "Startup" and "shutdown" means that time during which an air contaminant source or emission-control equipment is brought into normal operation or normal operation is terminated, respectively. (Renumbered from OAR 340-20-355(8))
- (111) "Stationary source" means any building, structure, facility, or installation that emits or may emit any regulated air pollutant.
- (112) "Substantial Underpayment" means the lesser of ten percent (10%) of the total interim emission fee for the major source or five hundred dollars. (Renumbered from OAR 340-20-520(25))
- (113) "Synthetic minor source" means a source which would be classified as a major source under OAR 340-28-110, but for physical or operational limits on its potential to emit air pollutants contained in an ACDP issued by the Department under OAR 340-28-1700 through 340-28-1790.
- (114) "Title I modification" means one of the following modifications pursuant to Title I of the FCAA:
- (a) a major modification subject to OAR 340-28-1930, Requirements for Sources in Nonattainment Areas;
  - (b) a major modification subject to OAR 340-28-1940, Requirements for Sources in Attainment or Unclassified Areas (Prevention of Significant Deterioration);
  - (c) a change which is subject to a New Source Performance Standard under Section 111 of the FCAA; or
  - (d) a modification under Section 112 of the FCAA.
- (115) "Total Reduced Sulfur" or "TRS" means the sum of the sulfur compounds hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide, and any other organic sulfides present expressed as hydrogen sulfide (H<sub>2</sub>S). (Renumbered from OAR 340-20-520(26))
- (116) "Unavoidable" or "could not be avoided" 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. (Renumbered from OAR 340-20-355(9))
- (117) "Upset" or "Breakdown" means any failure or malfunction of any pollution control equipment or operating equipment which may cause an excess emission. (Renumbered from OAR 340-20-355(10))
- (118) "Verified Emission Factor" means an emission factor approved by the Department and developed for a specific major source or source category and approved for application to that major source by the Department. (Renumbered from OAR 340-20-520(27))
- (119) "Visibility Impairment" means any humanly perceptible change in visual range, contrast or coloration from that which would have existed under natural conditions. Natural conditions include fog, clouds, windblown dust, rain, sand, naturally ignited wildfires, and natural aerosols. (Renumbered from OAR 340-20-225(29))
- (120) "Volatile Organic Compounds" or "VOC" means any compound

of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions.

- (a) This includes any such organic compound other than the following, which have been determined to have negligible photochemical reactivity: Methane; ethane; methylene chloride (dichloromethane); 1,1,1-trichloroethane (methyl chloroform); 1,1,1-trichloro-2,2,2-trifluoroethane (CFC-113); Trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (CFC-22); trifluoromethane (FC-23); 1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123); 1,1,1,2-tetrafluoroethane (HFC-134a); 1,1-dichloro 1-fluoroethane (HCFC-141b); 1-chloro 1,1-difluoroethane (HCFC-142b); 2-chloro 1,1,1,2-tetrafluoroethane (HCFC-124); pentafluoroethane 2 (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HFC-152a); and perfluorocarbon compounds which fall into these classes:
- (A) Cyclic, branched, or linear, completely fluorinated alkanes;
  - (B) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
  - (C) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
  - (D) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.
- (b) For purposes of determining compliance with emissions limits, VOC will be measured by an applicable reference method in accordance with the Department's Source Sampling Manual, January, 1992. Where such a method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds, as listed in subsection (a), may be excluded as VOC if the amount of such compounds is accurately quantified, and such exclusion is approved by the Department.
- (c) As a precondition to excluding these compounds, as listed in subsection (a), as VOC or at any time thereafter, the Department may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the satisfaction of the Department, the amount of negligibly-reactive compounds in the source's emissions.

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from OAR 340-20-033.04; DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83; DEQ 18-1984, f. & ef. 10-16-84; DEQ 8-1988, f. & cert. ef. 5-19-88 (and corrected 5-31-88); DEQ 14-1989, f. & cert. ef. 6-26-89; DEQ 42-1990, f. 12-13-90, cert. ef. 1-2-91; AQ 14, f. & ef. 1-23-92; AQ 23, f. & ef. 11-12-92; Renumbered from OAR 340-20-145; Renumbered from OAR 340-20-225; Renumbered from OAR 340-20-305; Renumbered from OAR 340-20-355; Renumbered from OAR 340-20-460; Renumbered from OAR 340-20-520

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## **Fees and Permit Duration**

**340-28-1750**

- (1) All persons required to obtain a permit shall be subject to a three part fee consisting of a uniform non-refundable filing fee of \$75, an application processing fee, and an annual compliance determination fee which are determined by applying **Table 4**. The amount equal to the filing fee, application processing fee, and the annual compliance determination fee shall be submitted as a required part of any application for a new permit. The amount equal to the filing fee and the application processing fee shall be submitted with any application for modification of a permit. The amount equal to the filing fee, application processing fee, and the annual compliance determination fee shall be submitted with any application for a renewed permit.
- (2) The fee schedule contained in the listing of air contaminant sources in **Table 4** shall be applied to determine the ~~permit~~ fees for permit surcharges (Table 4, Part I.) and permit fees (Table 4, Part II.) on a Standard Industrial Classification (SIC) plant site basis.
- (3) Modifications of existing, unexpired permits which are instituted by the Department or Regional Authority due to changing conditions or standards, receipts or additional information, or any other reason pursuant to applicable statutes and do not require refiling or review of an application or plans and specifications shall not require submission of the filing fee or the application processing fee.
- (4) Applications for multiple-source permits received pursuant to OAR 340-28-1730 shall be subject to a single \$75 filing fee. The application processing fee and annual compliance determination fee for multiple-source permits shall be equal to the total amounts required by the individual sources involved, as listed in **Table 4**.
- (5) The annual compliance determination fee shall be paid at least 30 days prior to the start of each subsequent permit year. Failure to timely remit the annual compliance determination fee in accordance with the above shall be considered grounds for not issuing a permit or revoking an existing permit.
- (6) If a permit is issued for a period less than one (1) year, the applicable annual compliance determination fee shall be equal to the full annual fee. If a permit is issued for a period greater than 12 months, the applicable annual compliance determination fee shall be prorated by multiplying the annual compliance determination fee by the number of months covered by the permit and dividing by twelve (12).
- (7) In no case shall a permit be issued for more than ten (10) years, except for synthetic minor source permits which shall not be issued for more than five (5) years.
- (8) Upon accepting an application for filing, the filing fee shall

- be non-refundable.
- (9) When an air contaminant source which is in compliance with the rules of a permit issuing agency relocates or proposes to relocate its operation to a site in the jurisdiction of another permit issuing agency having comparable control requirements, application may be made and approval may be given for an exemption of the application processing fee. The permit application and the request for such fee reduction shall be accompanied by:
- (a) A copy of the permit issued for the previous location; and
  - (b) Certification that the permittee proposes to operate with the same equipment, at the same production rate, and under similar conditions at the new or proposed location. Certification by the agency previously having jurisdiction that the source was operated in compliance with all rules and regulations will be acceptable should the previous permit not indicate such compliance.
- (10) If a temporary or conditional permit is issued in accordance with adopted procedures, fees submitted with the application for an ACDP shall be retained and be applicable to the regular permit when it is granted or denied.
- (11) All fees shall be made payable to the permit issuing agency.
- (12) Pursuant to ORS 468A.135, a regional authority may adopt fees in different amounts than set forth in **Table 4** provided such fees are adopted by rule and after hearing and in accordance with ORS 468.065(2).
- (13) Sources which are temporarily not conducting permitted activities, for reasons other than regular maintenance or seasonal limitations, may apply for use of a modified annual compliance determination fee in lieu of an annual compliance determination fee determined by applying **Table 4**. A request for use of the modified annual compliance determination fee shall be submitted to the Department in writing along with the modified annual compliance determination fees on or before the due date of the annual compliance determination fee. The modified annual compliance determination fee shall be \$250.]
- (14) Owners or operators who have received Department approval for payment of a modified annual compliance determination fee shall obtain authorization from the Department prior to resuming permitted activities. Owners or operators shall submit written notification to the Department at least thirty (30) days before startup specifying the earliest anticipated startup date, and accompanied by:
- (a) Payment of the full annual compliance determination fee determined from **Table 4** if greater than six (6) months would remain in the billing cycle for the source, or
  - (b) Payment of 50% of the annual compliance determination fee determined from **Table 4** if six (6) months or less would remain in the billing cycle.



[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-20-033.12; DEQ 125, f. & ef. 12-16-76; DEQ 20-1979, f. & ef. 6-29-79; DEQ 11-1983, f. & ef. 5-31-83; DEQ 6-1986, f. & ef. 3-26-86; DEQ 12-1987, f. & ef. 6-15-87; DEQ 17-1990, f. & cert. ef. 5-25-90; AQ 4-1992, f. & ef. 12-2-91; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-20-165

# DIVISION 28

## OREGON ADMINISTRATIVE RULES CHAPTER 340, DIVISION 28 - DEPARTMENT OF ENVIRONMENTAL QUALITY

**TABLE 4  
AIR CONTAMINANT SOURCES AND  
ASSOCIATED FEE SCHEDULE  
(340-28-1750)**

### PART I.

NOTE: Fees in A-F are in addition to any other applicable fees

- |  |   |  |            |                 |                       |                 |           |                |                                       |                |                                |                |
|--|---|--|------------|-----------------|-----------------------|-----------------|-----------|----------------|---------------------------------------|----------------|--------------------------------|----------------|
| <p>A. Late Payment</p> <p style="padding-left: 20px;">a) 8-30 days \$200</p> <p style="padding-left: 20px;">b) &gt; 30 days \$400</p> <p><del>B. BACT/LAER Determination - \$12,500 each</del></p> <p>B. Ambient Monitoring Network Review - \$900</p> | <p>C. Modeling Review - <b>\$2,000</b></p> <p style="padding-left: 20px;"><del>a) Screening methodology - \$ 500</del></p> <p style="padding-left: 20px;"><del>b) Refined methodology - \$1,000</del></p> | <p>D. Alternative Emission Control Review - \$1,500</p> <p>E. Non-technical permit modification (name change, ownership transfer, and similar) - \$50</p> <p><b>F. Construction Permits</b></p> <table style="width: 100%; border-collapse: collapse;"> <tr><td style="padding-left: 20px;">a) Complex</td><td style="text-align: right;"><b>\$22,000</b></td></tr> <tr><td style="padding-left: 20px;">b) Moderately Complex</td><td style="text-align: right;"><b>\$10,000</b></td></tr> <tr><td style="padding-left: 20px;">c) Simple</td><td style="text-align: right;"><b>\$2,000</b></td></tr> </table> <p><b>G. Elective Permits- Synthetic Minor Sources</b></p> <table style="width: 100%; border-collapse: collapse;"> <tr><td style="padding-left: 20px;">a) Permit application or modification</td><td style="text-align: right;"><b>\$1,900</b></td></tr> <tr><td style="padding-left: 20px;">b) Annual compliance assurance</td><td style="text-align: right;"><b>\$1,000</b></td></tr> </table> | a) Complex | <b>\$22,000</b> | b) Moderately Complex | <b>\$10,000</b> | c) Simple | <b>\$2,000</b> | a) Permit application or modification | <b>\$1,900</b> | b) Annual compliance assurance | <b>\$1,000</b> |
| a) Complex   | <b>\$22,000</b>   |  |            |                 |                       |                 |           |                |                                       |                |                                |                |
| b) Moderately Complex  | <b>\$10,000</b>   |  |            |                 |                       |                 |           |                |                                       |                |                                |                |
| c) Simple  | <b>\$2,000</b>  |  |            |                 |                       |                 |           |                |                                       |                |                                |                |
| a) Permit application or modification  | <b>\$1,900</b>  |  |            |                 |                       |                 |           |                |                                       |                |                                |                |
| b) Annual compliance assurance   | <b>\$1,000</b>  |  |            |                 |                       |                 |           |                |                                       |                |                                |                |

NOTE: Persons who operate boilers shall include fees as indicated in Items 58, 59, or 60 in addition to fee for other applicable category.

### PART II.

Air Contaminant Source	Standard Industrial Classification Number (Reference Only)	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee
1. Seed cleaning located in special control areas, commercial operations only (not elsewhere included)	0723	75	400	610
2. Reserved				
3. Flour and other grain mill products in special control areas	2041			
a) 10,000 or more tons/yr		75	1300	1200
b) Less than 10,000 tons/yr		75	1000	515
4. Cereal preparations in special control areas	2043	75	1300	865

5.	Blended and prepared flour in special control areas	2045			
	a) 10,000 or more tons/yr		75	1300	865
	b) Less than 10,000 tons/yr		75	1000	500
6.	Prepared feeds for animals and fowl in special control areas	2048			
	a) 10,000 or more tons/yr		75	1300	1200
	b) Less than 10,000 tons/yr		75	800	945
7.	Beet sugar manufacturing	2063	75	1700	5955
8.	Animal reduction facilities	2077			
	a) 10,000 or more tons/yr input		75	1600	1920
	b) Less than 10,000 tons/yr input		75	1200	1040
9.	Coffee roasting, 30 tons/yr or more roasted product	2095	75	800	785
10.	Sawmills and/or planing mills	2421, 2426			
	a) 25,000 or more bd.ft./shift finished product		75	800	1200
	b) Reserved				
11.	Reserved				
12.	Reserved				
13.	Millwork (including kitchen cabinets and structural wood members), 25,000 or more bd.ft./shift input	2431, 2434, 2439	75	600	945
14.	Plywood manufacturing and/or veneer drying	2435, 2436			
	a) 25,000 or more sq.ft./hr, 3/8" basis finished product		75	2500	2420
	b) 10,000 or more but less than 25,000 sq.ft./hr, 3/8" basis finished product		75	1800	1635
	c) Less than 10,000 sq.ft./hr, 3/8" basis finished product		75	600	865
15.	Reserved				
16.	Wood preserving (excluding waterborne)	2491	75	1000	960

OREGON ADMINISTRATIVE RULES  
CHAPTER 340, DIVISION 28 - DEPARTMENT OF ENVIRONMENTAL QUALITY

TABLE 4  
AIR CONTAMINANT SOURCES AND  
ASSOCIATED FEE SCHEDULE  
(340-28-1750)

[  
NOTE: Fees in A-F are in addition to any other applicable fees

<del>A. Late Payment</del>	<del>D. Modeling Review</del>	<del>E. Alternative Emission Control</del>
<del>a) 8-30 days \$200</del>	<del>a) Screening methodology \$ 500</del>	<del>Review \$1,500</del>
<del>b) &gt; 30 days \$400</del>	<del>b) Refined methodology \$1,000</del>	
<del>B. BACT/LAER Determination \$12,500 each</del>		<del>F. Non technical permit modification</del>
<del>C. Ambient Monitoring Network Review \$90</del>		<del>(name change, ownership transfer, and similar) \$50</del>

NOTE: Persons who operate boilers shall include fees as indicated in Items 58, 59, or 60 in addition to fee for other applicable category.]]

Air Contaminant Source	Standard Industrial Classification Number (Reference Only)	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee
17. Particleboard manufacturing (including strandboard, flakeboard and waferboard)	2493			
a) 10,000 or more sq.ft./hr, 3/4" basis finished product		75	2500	2850
b) Less than 10,000 sq.ft./hr, 3/4" basis finished product		75	1200	1360
18. Hardboard manufacturing (including fiberboard)	2493			
a) 10,000 or more sq.ft./hr, 1/8" basis finished product		75	2500	2340
b) Less than 10,000 sq.ft./hr, 1/8" basis finished product		75	1200	1200
19. Battery separator mfg.	2499	75	1000	2080
20. Furniture and fixtures	2511			
a) 25,000 or more bd.ft./ shift input		75	600	945
b) Reserved				
21. Pulp mills, paper mills, and paperboard mills	2611, 2621, 2631			
a) Kraft, sulfite, & neutral sulfite only		75	5000	10355
b) Other - 100 tons or more of emissions		75	5000	10355

OREGON ADMINISTRATIVE RULES  
CHAPTER 340, DIVISION 28 - DEPARTMENT OF ENVIRONMENTAL QUALITY

TABLE 4  
AIR CONTAMINANT SOURCES AND  
ASSOCIATED FEE SCHEDULE  
(340-28-1750)

[NOTE: Fees in A-F are in addition to any other applicable fees]

<del>A. Late Payment</del>	<del>D. Modeling Review</del>	<del>E. Alternative Emission Control</del>
<del>a) 8-30 days \$200</del>	<del>a) Screening methodology \$ 500</del>	<del>Review \$1,500</del>
<del>b) &gt; 30 days \$400</del>	<del>b) Refined methodology \$1,000</del>	
<del>B. BACT/LAER Determination \$12,500 each</del>		<del>F. Non-technical permit modification</del>
<del>C. Ambient Monitoring Network Review \$90</del>		<del>(name change, ownership transfer, and similar) \$50</del>

NOTE: Persons who operate boilers shall include fees as indicated in Items 58, 59, or 60 in addition to fee for other applicable category.]]

Air Contaminant Source	Standard Industrial Classification Number (Reference Only)	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee
22. Building paper and building-board mills	2621, 2493	75	800	785
23. Alkalies and chlorine mfg.	2812			
a. High cost		75	2450	2750
b. Low cost		75	1400	2065
24. Calcium carbide manufacturing	2819			
a. High cost		75	2625	2750
b. Low cost		75	1500	2065
25. Nitric acid manufacturing	2819			
a. High cost		75	1750	1385
b. Low cost		75	1000	1040
26. Ammonia manufacturing	2819			
a. High cost		75	1750	1600
b. Low cost		75	1000	1200
27. Industrial inorganic and organic chemicals manufacturing (not elsewhere included)	2819, 2869			
a. High cost		75	2275	1960
b. Low cost		75	1300	1475
28. Synthetic resin manufacturing	2821			
a. High cost		75	1750	1600
b. Low cost		75	1000	1200

OREGON ADMINISTRATIVE RULES  
CHAPTER 340, DIVISION 28 - DEPARTMENT OF ENVIRONMENTAL QUALITY

TABLE 4  
AIR CONTAMINANT SOURCES AND  
ASSOCIATED FEE SCHEDULE  
(340-28-1750)

[NOTE: Fees in A-F are in addition to any other applicable fees]

<del>A. Late Payment</del>	<del>D. Modeling Review</del>	<del>E. Alternative Emission Control</del>
<del>a) 8-30 days \$200</del>	<del>a) Screening methodology \$ 500</del>	<del>Review \$1,500</del>
<del>b) &gt; 30 days \$400</del>	<del>b) Refined methodology \$1,000</del>	
<del>B. BACT/LAER Determination \$12,500 each</del>		<del>F. Non-technical permit modification</del>
<del>C. Ambient Monitoring Network Review \$90</del>		<del>(name change, ownership transfer, and similar) \$50</del>

[NOTE: Persons who operate boilers shall include fees as indicated in Items 58, 59, or 60 in addition to fee for other applicable category.]

Air Contaminant Source	Standard Industrial Classification Number (Reference Only)	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee
29. Charcoal manufacturing	2861	75	1400	2500
30. Pesticide manufacturing	2879	75	2500	10355
31. Petroleum refining	2911			
a) Refining, general		75	5000	10355
b) Asphalt production by distillation		75	1000	1200
32. Reserved				
33. Asphalt blowing plants	2952	75	1000	1555
34. Asphaltic concrete paving plants	2951			
a) Stationary		75	500	590
b) Portable		75	500	750
35. Asphalt felts or coating	2952	75	500	900
36. Rerefining of lubricating oils and greases, and reprocessing of oils and solvents for fuel	2992	75	900	1120
37. Glass container manufacturing	3221	75	1000	1475
38. Cement manufacturing	3241	75	3200	7585
39. Concrete manufacturing, including redimix and CTB	3271, 3272, 3273	75	200	320
40. Lime manufacturing	3274	75	1500	785

OREGON ADMINISTRATIVE RULES  
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<del>C. Ambient Monitoring Network Review \$90</del>		<del>(name change, ownership transfer, and similar) \$50</del>

NOTE: Persons who operate boilers shall include fees as indicated in Items 58, 59, or 60 in addition to fee for other applicable category.]]

Air Contaminant Source	Standard Industrial Classification Number (Reference Only)	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee
41. Gypsum products	3275	75	800	865
42. Rock crusher	1442, 1446, 3295			
a) Stationary		75	450	590
b) Portable		75	450	750
43. Steel works, rolling and finishing mills, electro-metallurgical products	3312, 3313	75	2500	2065
44. Incinerators	4953			
a) 250 or more tons/day capacity or any off-site infectious waste incinerator		75	12000	5170
b) 50 or more but less than 250 tons/day capacity		75	3000	1570
c) 2 or more but less than 50 tons/day capacity		75	500	610
d) Crematoriums and pathological waste incinerators, less than 2 tons/day capacity		75	500	610
e) PCB and/or hazardous waste incinerator		75	12000	5170

OREGON ADMINISTRATIVE RULES  
CHAPTER 340, DIVISION 28 - DEPARTMENT OF ENVIRONMENTAL QUALITY

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<del>C. Ambient Monitoring Network Review \$90</del>		<del>(name change, ownership transfer, and similar) \$50</del>

[NOTE: Persons who operate boilers shall include fees as indicated in Items 58, 59, or 60 in addition to fee for other applicable category.]

Air Contaminant Source	Standard Industrial Classification Number (Reference Only)	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee
45. Gray iron and steel foundries, malleable iron foundries, steel investment foundries, steel foundries (not else- where classified)	3321, 3322, 3324, 3325			
a) 3,500 or more tons/yr production		75	2500	1810
b) Less than 3,500 tons/yr production		75	600	945
46. Primary aluminum production	3334	75	5000	10355
47. Primary smelting of zirconium or hafnium	3339	75	5000	10355
48. Primary smelting and refining of ferrous and nonferrous metals (not elsewhere classified)	3331, 3339			
a) 2,000 or more tons/yr production		75	2500	4480
b) Less than 2,000 tons/yr production		75	500	1730
49. Secondary smelting and refining of nonferrous metals, 100 or more tons/yr metal charged	3341	75	1200	1200
50. Nonferrous metals foundries, 100 or more tons/yr metal charged	3363, 3364, 3365, 3366, 3369	75	600	1040
51. Reserved				



OREGON ADMINISTRATIVE RULES  
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~~NOTE: Persons who operate boilers shall include fees as indicated in Items 58, 59, or 60 in addition to fee for other applicable category.]~~

Air Contaminant Source	Standard Industrial Classification Number (Reference Only)	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee
52. Galvanizing and pipe coating (excluding all other activities)	3479	75	500	785
53. Battery manufacturing	3691	75	600	1040
54. Grain elevators, intermediate storage only, located in special control areas (not elsewhere classified)	4221			
a) 20,000 or more tons/yr grain processed		75	900	1635
b) Less than 20,000 tons/yr grain processed		75	500	785
55. Electric power generation	4911*			
a) Wood or coal fired, 25 MW or more		75	20000	10355
b) Reserved				
c) Oil or natural gas fired, 25 MW or more		75	1800	2500
56. Fuel burning equipment for Gas production and/or distribution, 10 million or more Btu/hr heat input	4922, 4925			
a) Natural gas transmission		75	1900	1200
b) Natural gas production and/or mfg.		75	1900	1200

OREGON ADMINISTRATIVE RULES  
CHAPTER 340, DIVISION 28 - DEPARTMENT OF ENVIRONMENTAL QUALITY

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(340-28-1750)

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<del>b) &gt; 30 days \$400</del>	<del>b) Refined methodology \$1,000</del>	
<del>B. BACT/LAER Determination - \$12,500 each</del>		<del>F. Non-technical permit modification</del>
<del>C. Ambient Monitoring Network Review - \$90</del>		<del>(name change, ownership transfer, and similar) \$50</del>

NOTE: ~~Persons who operate boilers shall include fees as indicated in Items 58, 59, or 60 in addition to fee for other applicable category.]~~

Air Contaminant Source	Standard Industrial Classification Number (Reference Only)	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee
57. Grain elevators, terminal elevators primarily engaged in buying and/or marketing grain, in special control areas	5153			
a) 20,000 or more tons/yr grain processed		75	2500	2065
b) Less than 20,000 tons/yr grain processed		75	700	785
58. Fuel burning equipment within the boundaries of the Portland and Medford-Ashland Air Quality Maintenance Areas, Salem Area Transportation Study Boundary, and Grants Pass, Klamath Falls, and LaGrande Urban Growth Areas**, ***	4961			
a) Residual or distillate oil fired, 250 million or more Btu/hr heat input		75	1600	1570
b) Residual or distillate oil fired, 10 or more but less than 250 million Btu/hr heat input		75	1000	865
c) Reserved				
59. Fuel burning equipment within the boundaries of the Portland and Medford-Ashland Air Quality Maintenance Areas, Salem Area Transportation Study Boundary, and Grants Pass, Klamath Falls, and LaGrande Urban Growth Areas**, ***	4961			
a) Wood or coal fired, 35 million or more Btu/hr heat input		75	1600	1570
b) Wood or coal fired, less than 35 million Btu/hr heat input		75	400	865

OREGON ADMINISTRATIVE RULES  
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<del>C. Ambient Monitoring Network Review \$90</del>		<del>(name change, ownership transfer, and similar) \$50</del>

~~NOTE: Persons who operate boilers shall include fees as indicated in Items 58, 59, or 60 in addition to fee for other applicable category.]~~

Air Contaminant Source	Standard Industrial Classification Number (Reference Only)	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee
60. Fuel burning equipment outside the boundaries of the Portland and Medford-Ashland Air Quality Maintenance Areas, Salem Area Transportation Study Boundary, and Grants Pass, Klamath Falls, and LaGrande Urban Growth Areas**, ***  All oil fired 30 million or more Btu/hr heat input, and all wood and coal fired 10 million or more Btu/hr heat input	4961			
		75	1000	865
61. Sources installed in or after 1971 not listed herein which would emit 5 or more tons PM <sub>10</sub> in a PM <sub>10</sub> nonattainment area, or 10 or more tons/yr of any air contaminants in other parts of the state. This includes but is not limited to particulates, SO <sub>x</sub> , or Volatile Organic Compounds (VOC), if the source were to operate uncontrolled	any			
a) High cost b) Medium cost c) Low cost		75 75 75	9000 2500 600	6400 1120 480
62. Sources installed in or after 1971 not listed herein which would emit significant malodorous emissions, as determined by Departmental review of sources which are known to have similar air contaminant emissions.	any			

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<del>B. BACT/LAER Determination \$12,500 each</del>	<del>F. Non-technical permit modification</del>	
<del>C. Ambient Monitoring Network Review \$90</del>	<del>(name change, ownership transfer, and similar) \$50</del>	

NOTE: Persons who operate boilers shall include fees as indicated in Items 58, 59, or 60 in addition to fee for other applicable category.]

Air Contaminant Source	Standard Industrial Classification Number (Reference Only)	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee
a) High cost		75	9000	6400
b) Medium cost		75	2500	1120
c) Low cost		75	600	480
63. Sources not listed herein for which an air quality problem is identified by the Department <u>or which</u> <u>are otherwise required to obtain</u> <u>a permit</u>	any			
a) High cost		75	9000	6400
b) Medium cost		75	2500	1120
c) Low cost		75	600	480
64. Bulk gasoline plants regulated by OAR 340-22-120****	5171	75	400	515
65. Bulk gasoline terminals****	5171	75	4000	1730
66. Liquid storage tanks, 39,000 gallons or more capacity, regulated by OAR 340-22-160 (not elsewhere included)****	5169, 5171	75	200/tank	355/tank
67. Can or drum coating****	3411, 3412			
a) 50,000 or more units/mo.		75	6000	3105
b) Less than 50,000 units/mo.		75	400	690
68. Paper or other substrate coating****	2672, 3861	75	6000	3105
69. Coating flat wood regulated by OAR 340-22-200****	2435	75	2000	1040
70. Surface coating, manufacturing****	any			
a) 100 or more tons VOC/yr		75	2000	1380

OREGON ADMINISTRATIVE RULES  
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<del>b) &gt; 30 days \$400</del>	<del>b) Refined methodology \$1,000</del>	
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NOTE: Persons who operate boilers shall include fees as indicated in Items 58, 59, or 60 in addition to fee for other applicable category.]]

Air Contaminant Source	Standard Industrial Classification Number (Reference Only)	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee
b) 10 or more but less than 100 tons VOC/yr		75	600	690
c) less than 10 tons VOC/yr (at sources' request)		75	200	290
71. Flexographic or rotogravure printing, 60 or more tons VOC/yr per plant****	2754, 2759	75	2250	2000
72. Reserved				
73. Sources subject to NESHAPS rules (except demolition and renovation)	any	75	400	500
74. Sources requiring toxic air pollutant review, including Maximum Available Control Technology (MACT), (not elsewhere classified)	any	75	1000	960
75. Soil remediation plants	1799			
a) Stationary		75	1000	945
b) Portable		75	1000	1200

\* Excluding hydro-electric and nuclear generating projects.

\*\* Including co-generation facilities of less than 25 megawatts.

\*\*\* Legal descriptions and maps of these areas are on file in the Department.

\*\*\*\* Permit for sources in categories 64 through 71 are required only if the source is located in the Portland AQMA, Medford-Ashland AQMA or Salem SATS.

Renumbered from OAR 340-20-155

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October 7, 1993

**Permit Issuance**

**340-28-2200**

(1) Action on application.

(a) A permit, permit modification, or permit renewal may be issued only if all of the following conditions have been met:

(A) The Department has received a complete application for a permit, permit modification, or permit renewal, except that a complete application need not be received before issuance of a general permit under OAR 340-28-2170;

(B) Except for modifications qualifying for minor permit modification procedures under OAR 340-28-2250, the Department has complied with the requirements for public participation under OAR 340-28-2290;

(C) The Department has complied with the requirements for notifying and responding to affected States under OAR 340-28-2310(2);

(D) The conditions of the permit provide for compliance with all applicable requirements and the requirements of OAR 340-28-2100 through 340-28-2320; and

(E) The EPA has received a copy of the proposed permit and any notices required under OAR 340-28-2310(1) and (2), and has not objected to issuance of the permit under OAR 340-28-2310(3) within the time period specified therein or such earlier time as agreed to with the Department if no changes were made to the draft permit.

(b) When a multiple-source permit includes air contaminant sources subject to the jurisdiction of the Department and the Regional Authority, the Department may require that it shall be the permit issuing agency. In such cases, the Department and the Regional Authority shall otherwise maintain and exercise all other aspects of their respective jurisdictions over the permittee.

(c) Denial of a Permit. If the Department proposes to deny issuance of a permit, permit renewal, permit modification, or permit amendment, it shall notify the applicant by registered or certified mail of the intent to deny and the reasons for denial. The denial shall become effective 60 days from the date of mailing of such notice unless within that time the applicant requests a hearing. Such a request for hearing shall be made in writing to the Director and shall state the grounds for the request. Any hearing held shall be conducted pursuant to the applicable provisions of ORS Chapter 183.

(d) The Department or Lane Regional Air Pollution Authority

is the permitting authority for purposes of the 18 month requirement contained in 42 USC § 7661b(c) and this subsection. Except as provided under the initial transition plan or under regulations promulgated under Title IV of the FCAA or under OAR 340-28-2100 through 340-28-2320 for the permitting of affected sources under the national acid rain program, the Department shall take final action on each permit application (including a request for permit modification or renewal) within 18 months after receiving a complete application.

- (e) The Department shall promptly provide notice to the applicant of whether the application is complete. Unless the Department requests additional information or otherwise notifies the applicant of incompleteness within 60 days of receipt of an application, the application shall be deemed complete. For modifications processed through minor permit modification procedures, OAR 340-28-2250(2), the Department shall not require a completeness determination.
  - (f) The Department shall provide a review report that sets forth the legal and factual basis for the draft permit conditions (including references to the applicable statutory or regulatory provisions). The Department shall send this report to the EPA and to any other person who requests it.
  - (g) The submittal of a complete application shall not affect the requirement that any source have a Notice of Approval in accordance with OAR 340-28-2270 or a preconstruction permit in accordance with OAR 340-28-1700 through 340-28-1790 or OAR 340-28-1900 through 340-28-2000.
  - (h) Failure of the Department to take final action on a complete application or failure of the Department to take final action on an EPA objection to a proposed permit within the appropriate time shall be considered to be a final order for purposes of ORS Chapter 183.
- (2) Requirement for a permit.
- (a) Except as provided in OAR 340-28-2200(2)(b), OAR 340-28-2220(3), and OAR 340-28-2250(2)(d), no federal operating permit program source may operate after the time that it is required to submit a timely and complete application after the effective date of the program, except in compliance with a permit issued under a federal operating permit program.
  - (b) If a federal operating permit program source submits a timely and complete application for permit issuance (including for renewal), the source's failure to have a federal operating permit is not a violation of OAR 340-28-2100 through 340-28-2320 until the Department takes

final action on the permit application, except as noted in this section. This protection shall cease to apply if, subsequent to the completeness determination made pursuant to OAR 340-28-2200(1)(e), and as required by OAR 340-28-2120(1)(b), the applicant fails to submit by the deadline specified in writing by the Department any additional information identified as being needed to process the application. If the final permit action being challenged is the Department's failure to take final action, a petition for judicial review may be filed any time before the Department denies the permit or issues the final permit.

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October 7, 1993



Division 28  
Federal Operating Permit Fees

Purpose, Scope And Applicability

340-28-2560

- (1) The purpose of OAR 340-28-2560 through 340-28-2720 is to provide owners and operators of major sources and the Department with the criteria and procedures to determine emissions and fees based on air emissions and specific activities.
- (2) OAR 340-28-2560 through 340-28-2720 apply to major sources as defined in OAR 340-28-110.
- (3) The owner or operator may elect to pay emission fees for each assessable emission on:
  - (a) actual emissions, or
  - (b) permitted emissions.
- (4) If the assessable emission is of a regulated air pollutant listed in OAR 340-32-130 and there are no applicable methods to demonstrate actual emissions, the owner or operator may propose that the Department approve an emission factor based on the best representative data to demonstrate actual emissions for fee purposes.
- (5) Major sources subject to the federal operating permit program defined in 340-28-110, are subject to the following fees:
  - (a) Emission fees, (OAR 340-28-2590), and
  - (b) Annual base fee of \$2,500 per source (OAR 340-28-2580).
- (6) Major sources subject to the federal operating permit program may also be subject to user fees (OAR 340-28-2600 and 340-28-1750).
- (7) The Department shall credit owners and operators of major sources subject to the first year of the Federal Operating Permit Fees for Annual Compliance Determination Fees paid for any period after October 1, 1994.

Supplemental Interim Emission Fee Assessment

340-28-2570 The Department shall assess supplemental interim emission fees based on 1992 calendar emission reports subject to the procedures in the Interim Emission Fee Rules, OAR 340-28-2400 through 340-28-2550. The owner or operator shall submit supplemental emission fees payable to the Department by the later of January 31, 1994 or 30 days after the Department mails the fee invoice.

Annual Base Fee

340-28-2580 The Department shall assess an annual base fee of \$2,500 for each major source subject to the federal operating

permit program.

Emission Fee

340-28-2590 Based on the Federal Operating Permit Program Budget, prepared by the Department and approved by the 1993 Oregon Legislature, the Commission determines that an emission fee of \$29.26 per ton is necessary to cover all reasonable direct and indirect costs of implementing the federal operating permit program.

Specific Activity Fees

340-28-2600

Specific activity fees shall be assessed by the Department for a major source with any one of the following activities:

<u>Specific Activity</u>	<u>Fee</u>
<u>1. Existing source permit modifications</u>	<u>a. Simple \$1,000</u> <u>b. Complex \$15,000</u>
<u>2. Hazardous Air Pollutant permit modifications</u>	<u>a. Simple \$3,000</u> <u>b. Complex \$10,000</u>
<u>3. Ambient air monitoring review</u>	<u>a. \$2,000</u>

Pollutants Subject to Emission Fees

340-28-2590

- (1) The Department shall assess emission fees on assessable emissions up to and including 4,000 tons per year for each regulated pollutant for fee purposes.
- (2) If the emission fee on PM<sub>10</sub> emissions is based on the PSEL for a major source that does not have a PSEL for PM<sub>10</sub>, the Department shall assess the emission fee on the PSEL for TSP.
- (3) The owner or operator shall determine each assessable emission separately.
- (4) The owner or operator shall pay emission fees on all assessable emissions from each emission source included in the permit or application review report.
- (5) The owner or operation shall not pay emission fees on Hazardous Air Pollutants already covered by a Criteria Pollutant.

Exclusions

340-28-2600

- (1) The Department shall not assess emission fees on newly permitted major sources that have not begun initial operation.
- (2) The Department shall not assess emission fees on carbon monoxide. However, sources that emit or are permitted to emit 100 tons or more per year of carbon monoxide are subject to the emission fees on all other regulated air pollutants regardless of the amount of emissions of those regulated air

- pollutants.
- (3) The Department shall not assess emission fees, OAR 340-28-2590, if there are no emissions of a regulated pollutant from an emission unit for the entire calendar year.
  - (4) If an owner or operator of a major source operates an assessable emission point/unit for less than 5% of the permitted operating schedule, the owner or operator may elect to report emissions based on a proration of the PSEL for the actual operating time.
  - (5) The Department shall not assess emission fees on emissions categorized as credits or unassigned PSELs within a federal operating permit. However, credits and unassigned PSELs shall be included in determining whether a source is a federal operating permit program source, as defined in OAR 340-28-110(41).
  - (6) The Department shall not assess emission fees on categorically insignificant emissions as defined in OAR 340-28-110(15).

#### References

340-28-2610 Reference documents used in OAR 340-28-2560 through 340-28-2720 include the Department Source Sampling Manual and the Department Continuous Monitoring Manual.

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

#### Election For Each Assessable Emission

- 340-28-2620
- (1) The owner or operator shall make an election to pay emission fees on either actual emissions or permitted emissions for each year for each assessable emission and notify the Department in accordance with OAR 340-28-2640.
  - (2) The owner or operator may elect to pay emission fees on permitted emissions for hazardous air pollutants. An owner or operator may elect a Hazardous Air Pollutant PSEL in accordance with OAR 340-28-1050. The HAP PSEL shall only be used for fee purposes.
  - (3) If an owner or operator fails to notify the Department of the election for an assessable emission, the Department shall assess emission fees for the assessable emission based on permitted emissions. If the permit does not identify a PSEL for an assessable emission, the Department shall develop a PSEL.
  - (4) An owner or operator may elect to pay emission fees on the aggregate limit for insignificant emissions that are not categorically exempt insignificant emissions.

#### Emission Reporting

340-28-2630

- (1) For the purpose of assessing emission fees the owner or operator shall submit the following information on a form(s) developed by the Department for each assessable emission in tons per year, reported as follows:

  - (a) Particulate Matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers, as defined in OAR 340-28-110(71), as PM<sub>10</sub> or if permit specifies Total Suspended Particulate (TSP) then as TSP,
  - (b) Sulfur Dioxide as SO<sub>2</sub>,
  - (c) Oxides of Nitrogen (NO<sub>x</sub>) as Nitrogen Dioxide (NO<sub>2</sub>),
  - (d) Total Reduced Sulfur (TRS) as H<sub>2</sub>S in accordance with OAR 340-25-150(15),
  - (e) Volatile Organic Compounds as:

    - (A) VOC for material balance emission reporting, or
    - (B) Propane (C<sub>3</sub>H<sub>8</sub>), unless otherwise specified by permit, or OAR Chapter 340, or a method approved by the Department, for emissions verified by source testing.
  - (f) Fluoride as F.
  - (g) Lead as Pb.
  - (h) Hydrogen Chloride as HCl.
  - (i) Hazardous Air Pollutants as specified in a Department approved test method.
- (2) The owner or operator electing to pay emission fees on actual emissions shall report emissions as follows:

  - (a) Round up to the nearest whole ton for emission values 0.5 and greater, and
  - (b) Round down to the nearest whole ton for emission values less than 0.5.
- (3) The owner or operator electing to pay emission fees on actual emissions shall:

  - (a) Submit complete information on the forms including all assessable emissions, emission points and sources, and
  - (b) Submit documentation necessary to support emission calculations.
- (4) The owner or operator electing to pay on actual emissions for an assessable emission shall report total emissions including those emissions in excess of 4,000 tons for each assessable emission.
- (5) The owner or operator electing to pay on permitted emissions for an assessable emission shall submit a statement to the Department that they shall pay on the PSEL in effect for the calendar year for which they are paying, in accordance with OAR 340-28-2620 and 340-28-2630.
- (6) If more than one permit is in effect for a calendar year for a major source, the owner or operator electing to pay on permitted emissions shall pay on the PSEL(s) in effect for each day of that calendar year.

## Emission Reporting And Fee Procedures

340-28-2640

- (1) The owner or operator shall submit the form(s), including the owner's or operator's election for each assessable emission, to the Department with the annual permit report in accordance with annual reporting procedures.
- (2) The owner or operator may request that information, other than emission information, submitted pursuant to OAR 340-28-2560 through 340-28-2720 be exempt from disclosure in accordance with OAR 340-28-400.
- (3) Records developed in accordance with these rules are subject to inspection and entry requirements in OAR 340-28-2160. The owner or operator shall retain records for a period of at least 5 years in accordance with OAR 340-28-2130(3)(b)(B).
- (4) The Department may accept information submitted or request additional information from the owner or operator. The owner or operator shall submit additional actual emission information requested by the Department within thirty (30) days of receiving a request from the Department. The Department may approve a request from an owner or operator for an extension of time of up to thirty days to submit additional information under extenuating circumstances.
- (5) If the Department determines the actual emission information submitted for any assessable emission does not meet the criteria in OAR 340-28-2560 through 340-28-2720, the Department shall assess the emission fee on the permitted emission for that assessable emission.
- (6) The owner or operator shall submit emission fees payable to the Department by the later of:
  - (a) August 1 for emission fees from the previous calendar year, or
  - (b) Thirty (30) days after the Department mails the fee invoice.
- (7) Department acceptance of emission fees shall not indicate approval of data collection methods, calculation methods, or information reported on Emission Reporting Forms. If the Department determines initial emission fee assessments were inaccurate or inconsistent with OAR 340-28-2560 through 340-28-2720, the Department may assess or refund emission fees up to two years after emission fees are received by the Department.
- (8) The Department shall not revise a PSEL solely due to an emission fee payment.
- (9) Owners or operators operating major sources pursuant to OAR 340-28-2100 through OAR 340-28-2320 shall submit the emission reporting information with the annual permit report.

## Actual Emissions

340-28-2650 An owner or operator electing to pay on actual emissions shall obtain emission data and determine emissions using one of the following methods:

- (1) Continuous monitoring systems used in accordance with OAR 340-28-2660,
- (2) Verified emission factors developed for that particular source in accordance with OAR 340-28-2700 for:
  - (a) Each assessable emission, or
  - (b) A combination of assessable emissions if there are multiple sources venting to the atmosphere through one common emission point (eg. stack). The owner or operator shall have a verified emission factor plan approved by the Department prior to conducting the source testing in accordance with OAR 340-28-2700,
- (3) Material balances determined in accordance with OAR 340-28-2670, OAR 340-28-2680, or OAR 340-28-2690, or
- (4) Verified emission factors for source categories developed in accordance with OAR 340-28-2700(11).
- (5) For specific assessable emissions of regulated air pollutants listed under OAR 340-32-130 and not subject by permit to a Plant Site Emission Limit, where the Department determines there are not applicable methods to demonstrate actual emissions, the owner or operator shall use the best representative data to develop an emission factor, subject to Department approval.

Determining Emissions From Continuous Monitoring Systems  
340-28-2660

- (1) The owner or operator shall use data collected in accordance with federal operating permit conditions, applicable rules in OAR Chapter 340, or the Department's Continuous Monitoring Manual.
- (2) If the owner or operator has continuous monitoring data that comprises less than ninety percent (90%) of the plant operating time, the actual emissions during the period when the continuous monitoring system was not operating shall be determined from 90 percentile continuous monitoring data.

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

Determining Emissions Using Material Balance

340-28-2670 The owner or operator may elect to use material balance to determine actual emissions:

- (1) If the amount of material added to a process less the amount consumed and/or recovered from a process can be documented in accordance with Department approved permit conditions and in accordance with OAR 340-28-2560 through 340-28-2720.
- (2) The owner or operator shall only apply material balance calculations to VOC or sulfur dioxide emissions in accordance with OAR 340-28-2680 and OAR 340-28-2690 respectively.

Determining VOC Emissions Using Material Balance

340-28-2680 The owner or operator may determine the amount of VOC emissions for an assessable emission by using material balance.

- (1) The owner or operator using material balance to calculate VOC emissions shall determine the amount of VOC added to the process, the amount of VOC consumed in the process and/or the amount of VOC recovered in the process by testing in accordance with 40 Code of Federal Regulations (CFR) Part 60 EPA Method 18, 24, 25, a material balance method, or an equivalent plant specific method specified in the federal operating permit using the following equation:

$$\text{VOC}_{\text{tot}} = \text{VOC}_{\text{add}} - \text{VOC}_{\text{cons}}$$

Where:

$$\text{VOC}_{\text{tot}} = \text{Total VOC emissions, tons}$$

$$\text{VOC}_{\text{add}} = \text{VOC added to the process, tons}$$

$$\text{VOC}_{\text{cons}} = \text{VOC consumed and/or recovered from the process, tons}$$

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

Determining Sulfur Dioxide Emissions Using Material Balance

340-28-2690

- (1) Sulfur dioxide emissions for major sources may be determined by measuring the sulfur content of fuels and assuming that all of the sulfur in the fuel is oxidized to sulfur dioxide.
- (2) The owner or operator shall use ASTM methods to measure the sulfur content in fuel for each quantity of fuel burned.
- (3) The owner or operator shall determine sulfur dioxide emissions for each quantity of fuel burned, determining quantity by a method that is reliable for the source, by performing the following calculation:

$$\text{SO}_2 = \%S/100 \times F \times 2$$

Where:

$$\text{SO}_2 = \text{Sulfur dioxide emissions for each quantity of fuel, tons}$$

$$\%S = \text{Percent sulfur in the fuel being burned, \% (w/w).}$$

F = Amount of fuel burned, based on a quantity measurement, tons

2 = Pounds of sulfur dioxide per pound of sulfur

- (4) For coal-fired steam generating units the following equation shall be used by owners or operators of major sources to account for sulfur retention:

$$\text{SO}_{2\text{adj}} = \text{SO}_2 \times 0.97$$

Where:

SO<sub>2adj</sub> = Sulfur dioxide adjusted for sulfur retention (40 CFR Part 60, Appendix A, Method 19, Section 5.2)

SO<sub>2</sub> = Sulfur dioxide emissions from each quantity burned (OAR 340-28-2690(3))

- (5) Total sulfur dioxide emissions for the year shall be the sum total of each quantity burned calculated in accordance with OAR 340-28-2690(3) divided by 2000 pounds per ton.

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

Verified Emission Factors Using Source Testing  
340-28-2700

- (1) To verify emission factors used to determine assessable emissions the owner or operator shall either perform source testing in accordance with the Department's Source Sampling Manual or other methods approved by the Department for source tests. Source tests shall be conducted in accordance with testing procedures on file at the Department and the pretest plan submitted at least fifteen (15) days in advance and approved by the Department. All test data and results shall be submitted for review to the Department within thirty (30) days after testing.

NOTE: It is recommended that the owner or operator notify the Department and obtain pre-approval of the Emission Factor source testing program prior to or as part of the submittal of the first source test notification.

- (2) The owner or operator shall conduct or have conducted at least three compliance source tests, each consisting of at least three individual test runs for a total of at least nine test runs.



- (3) The owner or operator shall monitor and record or have monitored and recorded applicable process and control device operating data.
- (4) The owner or operator shall perform or have performed a source test either:
- (a) In each of three quarters of the year with no two successive source tests performed any closer than thirty (30) days apart, or
- (b) At equal intervals over the operating period if the owner or operator demonstrates and the Department approves that:
- (A) The process operates or has operated for part of the year, or
- (B) The process is or was not subject to seasonal variations.
- (5) The owner or operator shall conduct or have conducted the source tests to test the entire range of operating levels. At least one test shall be conducted at minimum operating conditions, one test at normal or average operating levels, and one test at anticipated maximum operating levels. If the process rate is constant, all tests shall be conducted at that rate. The owner or operator shall submit documentation to the Department demonstrating a constant process rate.
- (6) The owner or operator shall determine or have determined an emission factor for each source test by dividing each test run emissions, in pounds per hour, by the applicable process rate during the source test run. At least nine emission factors shall be plotted against the respective process rates and a regression analysis performed to determine the best fit equation and the correlation coefficient (R<sup>2</sup>). If the correlation coefficient is less than 0.50, which would indicate that there is a relatively weak relationship between emissions and process rates, the arithmetic average and standard deviation of at least nine emission factors shall be determined.
- (7) The owner or operator shall determine the Emissions Estimate Adjustment Factor (EEAF) as follows:
- (a) If the correlation coefficient (R<sup>2</sup>) of the regression analysis is greater than 0.50, the EEAF shall be 1+(1-R<sup>2</sup>).
- (b) If the correlation coefficient (R<sup>2</sup>) is less than 0.50, the EEAF shall be:

$$\text{EEAF} = 1 + \text{SD}/\text{EF}_{\text{avg}}$$

Where:

SD = Standard Deviation

EF<sub>avg</sub> = Average of the Emission Factors

(8) The owner or operator shall determine actual emissions for emission fee purposes using one of the following methods:

(a) If the regression analysis correlation coefficient is less than 0.50, the actual emissions shall be the average emission factor determined from at least nine test runs multiplied by the EEAF multiplied by the total production for the entire year, or

$$\underline{AE} = \underline{EF_{avg}} \times \underline{EEAF} \times \underline{P}$$

Where:

AE = Actual Emissions

EF<sub>avg</sub> = Average of the Emission Factors

EEAF = Estimated Emissions Adjustment Factor

P = Total production for the year

(b) If the regression analysis correlation coefficient is greater than 0.50 the following calculations shall be performed:

(A) Determine the average emission factor (EF) for each production rate category (maximum = EF<sub>max</sub>, normal = EF<sub>norm</sub>, and minimum = EF<sub>min</sub>).

(B) Determine the total annual production and operating hours, production time (PT<sub>tot</sub>), for the calendar year.

(C) Determine the total hours operating within the maximum production rate category (PT<sub>max</sub>). The maximum production rate category is any operation rate greater than the average of at least three maximum operating rates during the source testing plus the average of at least three normal operating rates during the source testing divided by two (2).

(D) Determine the total hours while operating within the normal production rate category (PT<sub>norm</sub>). The normal production rate category is defined as any operating rate less than the average of at least three maximum operating rates during the source testing plus the average of at least three normal operating rates during the source testing divided by two (2) and any operating rate greater than the average of at least three minimum operating rates during the source testing plus the average of at least three normal operating rates during the source testing divided by two (2).

(E) Determine the total hours while operating within the minimum production rate category (PT<sub>min</sub>). The

minimum production rate category is defined as any operating rate less than the average of at least three minimum operating rates during the source testing plus the average of at least three normal operating rates during the source testing divided by two (2).

(F) Actual emissions equals EFAF x  $[(PT_{max}/PT_{tot}) \times EEF_{max} + (PT_{norm}/PT_{tot}) \times EEF_{norm} + (PT_{min}/PT_{tot}) \times EEF_{min}]$ .

(9) The owner or operator shall determine emissions during startup and shutdown, and for emissions greater than normal, during conditions that are not accounted for in the procedure(s) otherwise used to document actual emissions. The owner or operator shall apply 340-28-2700(9) (a) or 340-28-2700(9) (b) (c) and (d) in developing emission factors. The owner or operator shall apply the emission factor obtained to the total time the assessable emission point operated in these conditions.

(a) All emissions during startup and shutdown, and emissions greater than normal shall be assumed equivalent to operation without an air pollution control device, unless accurately demonstrated by the owner or operator and approved by the Department in accordance with OAR 340-28-2700(9) (b), (9) (c), (9) (d), and (9) (e). The emission factor plus the EFAF shall be adjusted by the air pollution control device collection efficiency as follows:

Actual emission factor =  
 $(EF \times EFAF) / (1 - PCDE)$

Where:

EF = Emission Factor

EFAF = Emission Estimate Adjustment Factor

PCDE = Pollution Control Device Collection Efficiency Unless otherwise approved by the Department, the pollution control device collection efficiencies used in this calculation shall be:

Particulate Matter:

ESP or baghouse 0.90

High energy wet scrubber 0.80

Low energy wet scrubber 0.70

Cyclonic separator 0.50

Acid gases:

Wet or dry scrubber                      0.90

VOCs:

Incinerator                                      0.98

Carbon absorber                                      0.95

- (b) During process startups a Department approved source test shall be performed to determine an average startup factor. The average of at least three tests runs plus the standard deviation shall be used to determine actual emissions during startups.
- (c) During process shutdowns a Department approved source test shall be performed to determine an emission factor for shutdowns. The average of at least three test runs plus the standard deviation shall be used to determine actual emissions during shutdowns.
- (d) During routine maintenance activity the owner or operator shall:

  - (A) Perform routine maintenance activity during source testing for verified emission factors, or
  - (B) Determine emissions in accordance with Section (a) of this rule.
- (e) The emission factor need not be adjusted if the owner or operator demonstrates to the Department that the pollutant emissions do not increase during startup and shutdown, and for conditions that are not accounted for the in procedure(s) otherwise used to document actual emissions (eg. NO<sub>x</sub> emissions during an ESP failure).
- (10) A verified emission factor developed pursuant to OAR 340-28-2560 through 340-28-2720 and approved by the Department can not be used if a process change occurs that would affect the accuracy of the verified emission factor.
- (11) The owner or operator may elect to use verified emission factors for source categories if the Department determines the following criteria are met:

  - (a) The verified emission factor for a source category shall be based on verified emission factors from at least three individual sources within the source category,
  - (b) Verified emission factors from sources within a source category shall be developed in accordance with OAR 340-28-2700,
  - (c) The verified emission factors from the sources shall not differ from the mean by more than twenty percent, and
  - (d) The source category verified emission factor shall be the mean of the source verified emission factors plus the average of the source emission estimate adjustment

factors.

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

Late And Underpayment of Fees

340-28-2710

- (1) Notwithstanding any enforcement action, the owner or operator shall be subject to a late payment fee of:
  - (a) Two hundred dollars (\$200) for payments postmarked more than seven (7) or less than thirty (30) days late, and
  - (b) Four hundred dollars (\$400) for payments postmarked on or over thirty (30) days late.
- (2) Notwithstanding any enforcement action, the Department may assess an additional fee of the greater of four hundred (\$400) or twenty percent (20%) of the amount underpaid for substantial underpayment.

Failure to Pay Fees

340-28-2720 Any owner or operator that fails to pay fees imposed by the Department under these rules shall pay a penalty of 50 percent of the fee amount, plus interest on the fee amount computed in accordance with section 6621(a)(2) of the Internal Revenue Code of 1986.

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October 12, 1993

**Division 12**  
**Enforcement Procedures and Civil Penalties**

**Air Quality Classification of Violations**

340-12-050 Violations pertaining to air quality shall be classified as follows:

- (1) Class one:
  - (a) Violation of a Commission or Department Order, or variance;
  - (b) Constructing or operating a source without an Air Contaminant Discharge Permit;
  - (c) Modifying a source with an Air Contaminant Discharge Permit without first notifying and receiving approval from the Department;
  - (d) Violation of a compliance schedule in a permit;
  - (e) Exceeding an allowable emission level of a hazardous air pollutant;
  - (f) Exceeding an emission or opacity permit limitation for a criteria pollutant, by a factor of greater than or equal to two times the limitation, within 10 kilometers of either a Non-Attainment Area or a Class I Area for that criteria pollutant;
  - (g) Causing emissions that are a hazard to public safety;
  - (h) Failure to comply with Emergency Action Plans or allowing excessive emissions during emergency episodes;
  - (i) Violation of work practice requirement for asbestos abatement projects which causes a potential for public exposure to asbestos or release of asbestos into the environment;
  - (j) Storage or accumulation of friable asbestos material or asbestos-containing waste material from an asbestos abatement project which causes a potential for public exposure to asbestos or release of asbestos into the environment;
  - (k) Visible emissions of asbestos during an asbestos abatement project or during collection, processing, packaging, transportation, or disposal of asbestos-containing waste material;
  - (l) Conduct of an asbestos abatement project by a person not licensed as an asbestos abatement contractor;
  - (m) Violation of a disposal requirement for asbestos-containing waste material which causes a potential for public exposure to asbestos or release of asbestos into the environment;
  - (n) Advertising to sell, offering to sell or selling a non-certified wood stove;
  - (o) Illegal open burning in violation of OAR 340-23-042(2);
  - (p) Causing or allowing open field burning without first obtaining a valid field burning permit;
  - (q) Causing or allowing open field burning or stack burning

where prohibited by OAR 340-26-010(7) or OAR 340-26-055(1)(e);

- (r) Causing or allowing any propane flaming which results in visibility impairment on any Interstate Highway or Roadway specified in OAR 837-110-080(1) and (2);
  - (s) Failing to immediately and actively extinguish all flames and smoke sources when any propane flaming results in visibility impairment on any Interstate Highway or Roadway specified in OAR 837-110-080(1) and (2);
  - (t) Causing or allowing propane flaming of grass seed or cereal grain crops, stubble, or residue without first obtaining a valid propane flaming burning permit;
  - (u) Stack or pile burning grass sees or cereal grain crop residue without first obtaining a valid stack or pile burning permit;
  - (v) Open burning or propane flaming when State Fire Marshal restrictions are in effect;
  - (w) Failure to install vapor recovery piping in accordance with standards set forth in OAR Chapter 340, Division 150;
  - (x) Installing vapor recovery piping without first obtaining a service provider license in accordance with requirements set forth in OAR Chapter 340, Division 160;
  - (y) Submitting falsified actual or calculated ~~interim~~ emission fee data;
  - (z) Failure to provide access to premises or records when required by law, rule, permit or order;
  - (aa) Any violations related to air quality which causes a major harm or poses a major risk of harm to public health or the environment.
- (2) Class two:
- (a) Exceeding emission or opacity limitations in permits or rules;
  - (b) Violating standards in permits or rules for fugitive emissions, particulate deposition, or odors;
  - (c) Illegal open burning of commercial, construction and/or demolition, and/or agricultural waste;
  - (d) Failure to report excess emissions due to upset or breakdown of air pollution control equipment;
  - (e) Failure to comply with asbestos abatement licensing, certification, or accreditation requirements;
  - (f) Failure to provide notification of an asbestos abatement project;
  - (g) Failure to display permanent labels on a certified woodstove;
  - (h) Alteration of a permanent label for a certified woodstove;
  - (i) Failure to use Department-approved vapor control equipment when transferring fuel;
  - (j) Operating a vapor recovery system without first obtaining a piping test performed by a licensed service provider as

- required by OAR Chapter 340, Division 160;
- (k) Failure to obtain Department approval prior to installing a Stage II vapor recovery system not already registered with the Department as specified in Department rules;
  - (l) Failure to actively extinguish all flames and major smoke sources from open field or stack burning when prohibition conditions are imposed by the Department or when instructed to do so by an agency or employe of the Department;
  - (m) Causing or allowing a propane flaming operation to be conducted in a manner which causes or allows an open flame to be sustained;
  - (n) Installing, servicing, repairing, disposing of or otherwise treating automobile air conditioners without recovering and recycling chlorofluorocarbons using approved recovery and recycling equipment;
  - (o) Selling, or offering to sell, or giving as a sales inducement any aerosol spray product which contains as a propellant any compound prohibited under ORS 468A.655;
  - (p) Selling any chlorofluorocarbon or halon containing product prohibited under ORS 468A.635;
  - (q) Failure to pay an ~~{interim}~~ emission fee;
  - (r) Substantial underpayment of an ~~{interim}~~ emission fee;
  - (s) Submitting inaccurate ~~{actual or calculated interim}~~ emission fee data;
  - (t) Any violation related to air quality which is not otherwise classified in these rules.
- (3) Class three:
- (a) Illegal residential open burning;
  - (b) Improper notification of an asbestos abatement project;
  - (c) Failure to display a temporary label on a certified woodstove.



## Amendments to OAR Chapter 340, Division 32

**Definitions for Asbestos Emission Standards and Procedural Requirements****340-32-5590 As used in OAR 340-32-5600 through 340-32-5650:**

- (~~11~~1) "Adequately wet" means to sufficiently mix or penetrate asbestos-containing material with liquid to prevent the release of particulate asbestos materials. The absence of visible emissions is not sufficient evidence of being adequately wet. **[Renumbered from 340-25-455(1)]**
- (~~2~~2) "Asbestos" means the asbestiform varieties of serpentine (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite (amosite), anthophyllite, actinolite and tremolite. ~~"~~ **[Renumbered from 340-25-455(2)]**
- (~~4~~3) "Asbestos abatement project" means any demolition, renovation, repair, construction or maintenance activity of any public or private facility that involves the repair, enclosure, encapsulation, removal, salvage, handling or disposal of any material with the potential of releasing asbestos fibers from asbestos-containing material into the air. ~~[NOTE: An asbestos abatement project is not considered to be a source under OAR 340-25-460(2) through (6).]~~ Emergency fire fighting is not an asbestos abatement project. **[Renumbered from 340-25-455(4)]**
- (~~5~~4) "Asbestos manufacturing operation" means the combining of commercial asbestos, or in the case of woven friction products, the combining of textiles containing commercial asbestos with any other material(s) including commercial asbestos, and the processing of this combination into a product as specified in OAR 340-~~[25-465]~~**32-5590(3)**. **[Renumbered from 340-25-455(5)]**
- (~~6~~5) "Asbestos-containing material" means asbestos or any material containing more than one percent (1%) asbestos by weight, including particulate asbestos material. **[Renumbered from 340-25-455(6)]**
- (~~7~~6) "Asbestos mill" means any facility engaged in the conversion or any intermediate step in the conversion of asbestos ore into commercial asbestos. **[Renumbered from 340-25-455(7)]**
- (7) **"Asbestos Survey" means an inspection using the procedures contained in 40 CFR 763.86 (July 1, 1993) to determine whether materials or structures to be worked on, removed, or demolished, contain asbestos.**
- (~~8~~8) "Asbestos tailings" mean any solid waste product of asbestos mining or milling operations which contains asbestos. **[Renumbered from 340-25-455(8)]**
- (~~42~~9) "**Asbestos** Waste generator" means any person performing an

asbestos abatement project or any owner or operator of a source ~~covered by this section~~ subject to OAR 340-32-5590 through 340-32-5650 whose act or process generates asbestos-containing waste material. [Renumbered from 340-25-455(42)]

- (~~13~~10) "Asbestos-containing waste material" means any waste which contains asbestos tailings or any commercial asbestos, and is generated by a source subject to OAR 340-~~25-450~~32-5500 through 340-~~25-469~~32-5520 and OAR 340-32-5590 through 340-32-5650. This term includes, but not limited to, filters from control devices, asbestos abatement project waste, and bags or containers that previously contained commercial asbestos. [Renumbered from 340-25-455(3)]
- (~~13~~11) "Asbestos ~~[W]~~waste shipment record" means the shipment document, required to be originated and signed by the asbestos waste generator; used to track and substantiate the disposition of asbestos-containing waste material. [Renumbered from 340-25-455(43)]
- (~~13~~12) "Commercial asbestos" means ~~[any variety of ]~~asbestos which is produced by extracting asbestos from asbestos ore. [Renumbered from 340-25-455(13)]
- (~~15~~13) "Demolition" means the wrecking or removal of any load-supporting structural member of a facility together with any related handling operations or the intentional burning of any facility. [Renumbered from 340-25-455(15)]
- (~~18~~14) "Fabricating" means any processing (e.g., cutting, sawing, drilling) of a manufactured product that contains commercial asbestos, with the exception of processing at temporary sites (field fabricating) for the construction or restoration of facilities. In the case of friction products, fabricating includes bonding, debonding, grinding, sawing, drilling, or other similar operations performed as part of fabricating. [Renumbered from 340-25-455(18)]
- (~~20~~15) "Friable asbestos material" means any asbestos-containing material that hand pressure can crumble, pulverize or reduce to powder when dry. [Renumbered from 340-25-455(20)]
- (16) "Full-scale asbestos abatement project" means any removal, renovation, encapsulation, repair or maintenance of any asbestos-containing material which could potentially release asbestos fibers into the air, and which is not classified as a small-scale asbestos abatement project.
- (~~23~~17) "HEPA filter" means a high efficiency particulate air filter capable of filtering 0.3 micron particles with 99.97 percent efficiency. [Renumbered from 340-25-455(23)]
- (~~24~~18) "Inactive asbestos-containing waste disposal site" means any disposal site for asbestos-containing waste where the operator has allowed the Department's solid waste permit to lapse, has gone out of business, or no longer receives

asbestos-containing waste. [Renumbered from 340-25-455(24)]

(~~25~~19) "Interim storage of asbestos-containing material" means the storage of asbestos-containing waste material which has been placed in a container outside a regulated area until transported to an authorized landfill. [Renumbered from 340-25-455(25)]

(~~30~~20) "Nonfriable asbestos-containing material" means any material containing more than one percent (1%) asbestos as determined by weight that when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure. [Renumbered from 340-25-455(30)]

(~~31~~21) "Particulate asbestos material" means any finely divided particles of asbestos material. [Renumbered from 340-25-455(31)]

(~~36~~22) "Renovation" means altering in any way one or more facility components. Operations in which load-supporting structural members are wrecked or removed are excluded. [Renumbered from 340-25-455(36)]

(~~38~~23) "Small-scale asbestos abatement project" means ~~any asbestos abatement project which meets the definition given in OAR 340 33 020(17)]~~ any small-scale, short-duration renovating and maintenance activity or removal, renovation, encapsulation, repair, or maintenance procedures intended to prevent asbestos-containing material from releasing fibers into the air and which:

(a) Removes, encapsulates, repairs or maintains less than 40 linear feet or 80 square feet of asbestos-containing material;

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

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

(d) Does not result in worker exposure to an airborne concentration of asbestos in excess of 0.1 fibers per cubic centimeter of air, calculated as an eight (8) hour time weighted average. [Renumbered from 340-25-455(38)]

(~~39~~24) "Small-scale, short-duration renovating and maintenance activity" means ~~an activity which meets the definition given in OAR 340 33 020(18).]~~ a task for which the removal of asbestos is not the primary objective of the job, including, but not limited to:

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

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

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

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

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

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

- (f) No such activity described above shall result in airborne asbestos concentrations above 0.1 fibers per cubic centimeter of air (calculated as an eight (8) hour time weighted average). [Renumbered from 340-25-455(39)]
- (-41-25) "Structural member" means any load-supporting member of a facility, such as beams and load-supporting walls; or any non-supporting member, such as ceilings and non-load-supporting walls. [Renumbered from 340-25-455(41)]

Asbestos Survey Requirements for Federal Operating Permit Program Sources.

340-32-5610 ~~{Reserved}~~This rule applies to renovation and demolition activities at major sources subject to the federal operating permit program as defined in OAR 340-28-110(56)(b).

- (1) An asbestos survey shall be performed prior to demolition and renovation projects that take place at a major source.
- (2) For demolition and renovation projects where the asbestos survey reveals the presence of asbestos, or where unsafe conditions make a survey impossible, the owner or operator of the major source shall comply with OAR 340-32-5620 through OAR 340-32-5650.
- (3) For demolition projects where no asbestos-containing material is present, written notification shall be submitted to the Department on an approved form. The notification shall be submitted by the owner or operator or by the demolition contractor as follows:
- (a) Submit the notification, as specified in section (4) of this rule, to the Department at least ten days before beginning any demolition project.
- (b) The Department shall be notified prior to any changes in the scheduled starting or completion dates or other substantial changes or the notification will be void.
- (4) The following information shall be provided for each notification:
- (a) Name, address, and telephone number of the person conducting the demolition.
- (b) Contractor's Oregon demolition license number, if applicable.
- (c) Certification that no asbestos was found during the asbestos survey and that if asbestos-containing material is uncovered during demolition the procedures found in OAR 340-32-5620 through OAR 340-32-5650 will be followed.
- (d) Description of building, structure, facility, installation, vehicle, or vessel to be demolished, including:
- (A) The age, present and prior use of the facility;

- (B) Address or location where the demolition project is to be accomplished.
  - (e) Major source owner's or operator's name, address and phone number.
  - (f) Scheduled starting and completion dates of demolition work.
  - (g) Any other information requested on the Department form.
- (5) The owner or operator of a major source, or the licensed contractor performing a renovation or demolition project at a major source shall provide the Department with copies of the asbestos survey upon request.
- (6) A copy of the asbestos survey shall be available for inspection at each renovation and demolition project covered under this rule.

## NOTICE OF PROPOSED RULEMAKING HEARING

(Rulemaking Statements and Statement of Fiscal Impact must accompany this form.)

**AGENCY:** Department of Environmental Quality, Air Quality Division.  
The above named agency gives notice of hearing.

**HEARING TO BE HELD:**

DATE:	TIME:	LOCATION:
February 15, 1994	7:00pm	Medford
February 15, 1994	1:00pm	Bend
February 16, 1994	10:00am	Eugene
February 16, 1994	10:00am	Pendleton
February 18, 1994	1:00pm	Portland

Hearings Officers: Sara Laumann (Medford), Gregg Lande (Bend, Pendleton)  
Kathleen Heineman (Portland), and Don Arkell (Eugene).

Pursuant to the Statutory Authority of Senate Bill 86, 1993 Legislature. the following action is proposed:

**ADOPT:** OAR 340-28-2560 through 340-28-2720 (Federal Operating Permit Program Fee Rules); and OAR 340-32-5610 (Asbestos Survey Requirements)

**AMEND:** OAR 340-28-110 (Definitions); OAR 340-28-1720, 340-28-1730, 340-28-1750 (Amending Air Contaminant Discharge Permit Fees); OAR 340-12-050 (amendments to enforcement rules); and OAR 340-32-5590 (Asbestos Definitions)

**REPEAL:**


Prior Notice Given; Hearing Requested by Interested persons

No Prior Notice Given

**SUMMARY:** Rules are proposed to provide regulated air sources subject to the Federal Operating Permit Program and the Department with criteria, procedures and fees for funding Oregon's Federal Operating Permit Program. Rules are also proposed to adopt federal asbestos survey requirements prior to demolition and renovation for sources subject to the Federal Operating Permit Program.

Interested persons may comment on the proposed rules orally or in writing at the hearings. Written comments must be received by February 18, 1994. Written comments should be sent to and copies of the proposed rulemaking may be obtained from:

**AGENCY:** Department of Environmental Quality  
**ADDRESS:** Air Quality Division  
811 S. W. 6th Avenue  
Portland, Oregon 97204  
**ATTN:** Sara Laumann  
**PHONE:** (503) 229-5517 or Toll Free 1-800-452-4011

  
\_\_\_\_\_  
Signature Date

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## Federal Operating Permit Program Fee Rules

Date Issued:	January 4, 1994
Public Hearings:	February 15, 16, 18, 1994
Comments Due:	February 18, 1994

### **WHO IS AFFECTED:**

Major sources of regulated air pollutants.

### **WHAT IS PROPOSED:**

The Department proposes permanent adoption of fee rules for the Federal Operating Permit Program. Temporary rules were proposed to the Environmental Quality Commission on October 29, 1993. The Department proposes that the following rules be adopted and amended: OAR 340-28-2560 through 340-28-2720 (Federal Operating Permit Program Fee Rules, adopted as temporary rules by the Commission); OAR 340-28-110 (Definitions, amended as temporary rules by the Commission); OAR 340-28-1720, 340-28-1730, 340-28-1750 (Air Contaminant Discharge Permit Fees, amended as temporary rules by the Commission); and OAR 340-12-050 (amendments to enforcement rules, amended as temporary rules by the Commission).

The Department also proposes permanent adoption of asbestos inspection requirements for sources subject to the Federal Operating Permit Program. Temporary rules were proposed to the Environmental Quality Commission on October 29, 1993. The Department proposes that the following rules be adopted and amended: OAR 340-32-5590 (Definitions, amended as temporary rules by the Commissions), OAR 340-32-5610 (Asbestos Inspection Requirements for Federal Operating Permit Program Sources), and OAR 340-28-2200 (Permit Issuance, amended as temporary rules by the Commission).

### **WHAT ARE THE HIGHLIGHTS:**

As required by the federal Clean Air Act Amendments of 1990, the rules will establish procedures, criteria and a fee schedule for the Department to assess fees on major air pollution sources subject to the Federal Operating Permit Program. Proposed rules provide the authority for the



Department to assess emission and annual base fees on major sources, proposed amendments to existing Air Contaminant Discharge Permit fees, and a user based activity fees for the following activities - New Source Review and Issuance, source impact modeling, permit modifications, elective permits and annual compliance fees for synthetic minor sources, ambient air monitoring fees, New Source MACT determinations, and Hazardous Air Pollutant permit modifications.

The federal Clean Air Act Amendments of 1990 also require that Federal Operating Permits include all federal requirements applicable to a source. This proposal would add asbestos survey provisions of the federal asbestos rules to the Oregon program. The requirement, which will apply only to major sources required to have a Federal Operating Permit, is equal to the corresponding federal provision.

**HOW TO  
COMMENT:**

Public Hearings to provide information and receive public comment are scheduled as follows:

February 15, 1994, 7:00pm, Medford  
February 15, Bend, 1:00pm, Bend  
February 16, 1994, 10:00am, Eugene  
February 16, 1993, 10:00am, Pendleton  
February 18, 1993, 1:00pm, Portland

Written comments must be received by 5:00 p.m. on February 18, 1994 at the following address:

Department of Environmental Quality  
Air Quality Division  
811 S. W. 6th Avenue  
Portland, Oregon, 97204

A copy of the Proposed Rule may be reviewed at the above address. A copy may be obtained from the Department by calling the Air Quality Division at 229-5359 or calling Oregon toll free 1-800-452-4011.

**WHAT IS THE  
NEXT STEP:**

The Department will evaluate comments received and will make a recommendation to the Environmental Quality Commission. Interested parties can request to be notified of the date the Commission will consider the matter by writing to the Department at the above address.

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State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal  
for  
Federal Operating Permit Program Fee Rules

## Rulemaking Statements and Justification of Temporary Rule

Pursuant to ORS 183.335(7), this statement provides information about the Environmental Quality Commission's intended action to adopt a rule.

1. Legal Authority

This proposal is to adopt temporary Oregon Administrative Rules to provide funding for the federal operating permit program as required by the Clean Air Act Amendments of 1990. It is proposed under the authority of ORS 468.020 and SB 86, enacted by the 1993 Legislature. The proposal would also adopt temporary rules to update the existing asbestos regulations to include federal asbestos survey requirements applicable to Federal Operating Permit Program sources under the authority of ORS 468A.300 through 468A.330.

2. Need for the Rule

The Clean Air Act Amendments of 1990 require states to develop a comprehensive permitting program funded by the sources subject to the program. States also must have the authority to include all federally applicable requirements in permits for source subject to the program. SB 86 specifically directs the adoption of fee rules by the Environmental Quality Commission. These rules are part of Oregon's Federal Operating Permit Program Submittal to EPA and due to EPA by November 15, 1994.

3. Justification of Temporary Rule

Pursuant to ORS 183.335(5), the Commission makes the following findings:

- i. The federal Clean Air Act requires states to submit their Title V federal operating permit program to the EPA by November 15, 1993. This includes a requirement that states develop a funding mechanism to cover all reasonable direct and indirect costs of developing and administering the permit program.

- ii. The federal implementing regulations require that operating permit programs have the authority to include all federally applicable requirements in permits. Although the Commission's existing rules meet or exceed the federal requirements in most respects, some places were identified as lacking. Those rules must be amended to comply with federal requirements.
- iii. Failure to meet the November 15, 1993 deadline could result in the imposition by EPA of sanctions, including loss of federal highway funding and increased emission offset requirements.
- iv. Senate Bill 86, which requires the emission fee rules, was not signed by the Governor until September 3, 1993.
- v. For the above reasons and as required by ORS 183.335(5)(a), the Commission finds that failure to act promptly will result in serious prejudice to the public interest or the interest of the parties concerned.

4. Principal Documents Relied Upon in this Rulemaking

- Enrolled Senate Bill 86, 67th Oregon Legislative Assembly-1993 Regular Session.
- ORS 468A.300 through 468A.330.
- Final EPA permit program rules, 57 Federal Register 32,250 (July 21, 1992), codified at 40 CFR Part 70.
- Federal Clean Air Act Amendments of 1990, 42 USC Sections 7661 et seq.
- EPA Guidance Memorandum, "Reissuance of Guidance on Agency Review of State Fee Schedules for Operating Permit Programs Under Title V", John S. Seitz, Director, EPA Office of Air Quality Planning and Standards, August 4, 1993.
- Federal Asbestos NESHAP, 40 CFR Subpart M.
- Federal Asbestos-Containing Materials in Schools, 40 CFR Subpart E 763.86.

The document references may inspected at the Department of Environmental Quality, Air Quality Division, 811 S.W. 6th Avenue, Portland, OR, during normal business hours.

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

**Rulemaking Proposal**  
for  
Proposed New Rules for The Federal Operating Permit Program Fee Rules  
and Asbestos Survey Requirements

## Fiscal and Economic Impact Statement

### Introduction

#### A. Fee Rules:

Title V of the Clean Air Act, Public Law 101-549, enacted on November 15, 1990, specifies the minimum elements of state operating permit programs. One of the elements is that the sources subject to the program are responsible for funding all the direct and indirect costs of the program. The Oregon Department of Environmental Quality proposes revisions to existing rules at OAR Divisions 12 and 28, and new rules in OAR Division 28, pursuant to Senate Bill 86. As required by the Clean Air Act, these proposed fee rules will fund the federal operating permit program in Oregon. The proposed rules provide air quality stationary sources and the Department of Environmental Quality with criteria and procedures to calculate air emissions and fees.

### Summary of Proposed Fees

Federal Operating Permit Program Fee	Fee Level	Anticipated Annual Fee Revenue
Supplemental Interim Emission Fee	A ramp up in the Interim Emission Fee of \$10.50 per ton, based on 1992 calendar year emissions reported in 1993. Rules propose collection in early 1994. Anticipated revenue from this fee is \$840,000. When combined with the already established Interim Emission Fee it will be \$23.50 per ton.	Not applicable
Emission Fee	Assessed on major sources subject to Oregon's Federal Operating Permit Program. Fee starts once EPA approves the program (anticipated date of approval, November, 1994).  Emission fee basis \$25 per ton plus an adjustment based on the Consumer Price Index (CPI). \$25 is based on 1989 dollars and as of September 1, 1993 emission fee plus CPI is \$29.26.  Based on 2 year's of interim emission fee reporting, the Department estimates 80,000 tons of emissions.	\$2,340,800

Federal Operating Permit Program Fee	Fee Level	Anticipated Annual Fee Revenue
Annual Base Fee	Each major source subject to the Federal Operating Permit Program is subject to an annual fee of \$2,500. The Department estimates 300 sources will be subject to this new program.	\$750,000
User Based Fees	The proposed rules contain user based fees for activities such as permit modifications, new permit applications, and synthetic minor permits.  Fees are proposed for each of these activities and the revenue anticipated is based on the frequency of these activities. The following chart describes the user based fees.	\$1,000,000
<b>TOTAL</b>		<b>\$4,090,800.00</b>

### Summary of User Based Fees

Activity (and description of frequency)	Proposed Federal Operating Permit Program Assessment (\$/per activity)	Estimated Total Revenue from Federal Operating Permit Program Assessments  (\$/per activity x actions/year)
New Source Review and Issuance, PSD/NSR (5 permits/year)	\$22,000	\$110,000
Modeling, Source Impact Modeling (5 PSD permit models/year and 30 permit modification models/year)	\$2,000	\$70,000
New Source Review and Issuance (MACT Construction, 10 permits/year)	\$22,000	\$220,000
New Source Review and Issuance (Other major source construction permits, 18 permits/year - 3 @ \$15,000 and 15 @ \$2,000)	\$2,000	\$30,000
	\$15,000	\$45,000
Existing Source Review and Issuance (Permit modifications, 17 permit mods/year, 5 @ \$1,500 and 12 @ \$10,000)	\$1,500	\$7,500
	\$10,000	\$120,000
Elective permits for synthetic minors (225 permit mods/charged at permit application)	\$1,900	\$85,500 <sup>1</sup>

<sup>1</sup> The synthetic minor permit modification fee is charged at the time of permit application and renewal, once every 5 years.

Activity (and description of frequency)	Proposed Federal Operating Permit Program Assessment (\$/per activity)	Estimated Total Revenue from Federal Operating Permit Program Assessments  (\$/per activity x actions/year)
Toxic permit modifications (12 permits/year, 5 @ \$3,000 and 7 @ \$10,000)	\$3,000	\$15,000
	\$10,000	\$70,000
Compliance assurance (synthetic minors) (225 source compliance assurance activities/year)	\$1,000	\$225,000
Ambient air monitoring (1/year)	\$2,000	\$2,000
<b>TOTAL</b>		<b>\$1,000,000</b>

**B. Asbestos Survey Requirements:**

Title V of the Clean Air Act also requires that state permit agencies have the authority to include all federally applicable requirements in permits. One of these requirements is the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Asbestos. This proposal would update the Commission's existing asbestos rules to include one provision of the federal Asbestos NESHAP which requires asbestos surveys prior to demolition and renovation. If asbestos is found during the survey, the proposal requires sources to follow existing asbestos abatement requirements. If no asbestos is found, the proposal requires sources to submit a notification of demolition to the Department at least 10 days prior to demolition. No fee is proposed for the notification of demolition

**General Public**

There would be no direct economic impact to the general public as a result of these proposed rules. The only known costs to the general public would be possible pass-through costs to customers, but the impact is assessed to be negligible.

**Small Business**

Pursuant to the Regulatory Flexibility Act, the EPA has quantified and described the expected impact of Title V on small entities, (i.e. small businesses, organizations, and governmental jurisdictions). Pursuant to this analysis, EPA has certified that the Title V rules as promulgated will not have a significant economic impact on a substantial number of small business entities.

Accommodations to the small business community include the provisions in rules adopted by the EQC on September 10, 1993. The rule provisions defer the applicability of these rules to non-major sources. Additionally, the Department has established a Small Business

Assistance program to accommodate the particular regulatory and technical air quality control needs of Oregon's small business community.

### **Large Business**

The primary types of companies affected in the private sector include, but are not limited to: electronics, electric utility generators, metals, pulp and paper, and wood products. The Department estimates that a total of approximately 300 permittees would be impacted by these rules.

The proposed asbestos survey requirements are already existing federal requirements under the NESHAP program. The proposal does not add any new requirements for sources, but would allow the Department to enforce the federal requirements through the Title V permit program. It is estimated that the cost per square foot surveyed is in the range of \$0.05 to \$0.10. Costs will vary with complexity of the project.

### **Local Governments**

In the public sector, only those local and state government agencies that are major sources with respect to the Title V program would be affected. Agencies that operate permitted fuel burning equipment, for example, Oregon Health Sciences University and Oregon State University, would be subject to these rules. The Port of Portland, a ship coating and repair facility, would also be impacted.

### **State Agencies**

The economic impacts to the Department of Environmental Quality will be an increase in revenues and staffing. A 28.50 full time equivalent (FTE) position increase is associated with the continuing development, implementation, and enforcement of the Federal Operating Permit Program and all associated indirect activities. A total of 59.92 positions will be responsible for implementation of this program. The Department does not expect that the processing of demolition notifications to require additional staff. As required by the federal Clean Air Act, the costs of the Title V program must be covered by the sources subject to the program. Therefore, total expenses will be equivalent to revenue. The Department estimates expenses/revenue during the 1993-1995 biennium to be \$8,181,600.

Lane Regional Air Pollution Authority (LRAPA) will administer the program in Lane County.

### **Assumptions**

This fiscal analysis assumes 300 major sources will be permitted by the Department of Environmental Quality. The number of sources was derived in part from sources currently holding Air Contaminant Discharge Permits. The additional sources were identified through the Department's Hazardous Air Pollutant (HAP) Source Identification Survey, since HAP sources will be regulated for the first time under this program.

It is assumed that these sources will report 80,000 tons of emissions yearly. This number is based on emission reported from two years of interim emission fee data and estimates derived from the Department's Hazardous Air Pollutant (HAP) Source Identification Survey.

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October 7, 1993



State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal  
for  
Federal Operating Permit Program Fee Rules

Land Use Evaluation Statement

**1. Explain the purpose of the proposed rules.**

Oregon Revised Statutes (ORS) 486A.310(1) and Senate Bill 86 enacted by the 1993 Oregon Legislature direct the Department to prepare and submit to EPA an approval federal operating permit program as required to implement Title V of the Federal Clean Air Act Amendments of 1990. The proposed rules contain the fee rules necessary for program submittal. In addition, the proposed rules update the existing asbestos regulations to include federal asbestos survey requirements applicable to Federal Operating Permit Program sources.

**2. Do the proposed rules affect existing rules, programs or activities that are considered land use programs in the DEQ State Agency Coordination (SAC) Program?**

Yes X No     

**a. If yes, identify existing program/rule/activity:**

The proposed rules affect the Air Contaminant Discharge Permit Program and the Federal Operating Permit Program.

**b. If yes, do the existing statewide goal compliance and local plan compatibility procedures adequately cover the proposed rules?**

Yes X No      (if no, explain):

**c. If no, apply the following criteria to the proposed rules.**

Staff should refer to Section III, subsection 2 of the SAC document in completing the evaluation form. Statewide Goal 6 - Air, Water and Land Resources is the primary goal that relates to DEQ authorities. However, other goals may apply such as Goal 5 - Open Spaces, Scenic and Historic



DEPARTMENT OF JUSTICE

PORTLAND OFFICE  
1515 SW 5th Avenue  
Suite 410  
Portland, Oregon 97201  
Telephone: (503) 229-5725  
FAX: (503) 229-5120  
TDD: (503) 378-5938

October 11, 1993

Fred Hansen, Director  
Department of Environmental Quality  
811 S.W. Sixth Avenue  
Portland OR 97204

Re: Rulemaking Proposal for Federal Operating Permit Program Fee  
Rules and Related Rules

DOJ File No.: 340-110-P0025-93

Dear Fred:

Although HB 2262, concerning amendments to the Administrative Procedures Act, will not become effective until November 4, 1993, you have asked us to review the proposed rules in light of the new requirement that all temporary rules be reviewed by the Attorney General before the rule is filed with the Secretary of State. The review required by the new bill is limited to a review of the legal sufficiency of the agency's statement of findings that its failure to act promptly will result in serious prejudice to the public interest or the interest of the parties concerned.

We have reviewed this statement and agree that failure to act promptly will result in serious prejudice to the public interest because of the November 15, 1993 deadline established by the federal Clean Air Act.

Sincerely,

*Shelley K. McIntyre*  
Shelley K. McIntyre  
Assistant Attorney General

SKM0149.LET

Areas, and Natural Resources; Goal 11 - Public Facilities and Services; Goal 16 - Estuarine Resources; and Goal 19 - Ocean Resources. DEQ programs or rules that relate to statewide land use goals are considered land use programs if they are:

1. Specifically referenced in the statewide planning goals; or
2. Reasonably expected to have significant effects on
  - a. resources, objectives or areas identified in the statewide planning goals, or
  - b. present or future land uses identified in acknowledged comprehensive plans.

In applying criterion 2. above, two guidelines should be applied to assess land use significance:

- The land use responsibilities of a program/rule/action that involves more than one agency, are considered the responsibilities of the agency with primary authority.
- A determination of land use significance must consider the Department's mandate to protect public health and safety and the environment.

**In the space below, state if the proposed rules are considered programs affecting land use. State the criteria and reasons for the determination.**

**The proposed rules are for the assessment and collection of fees for major sources of air pollutants. Therefore, the rules are not expected to impact land use.**

3. **If the proposed rules have been determined a land use program under 2. above, but are not subject to existing land use compliance and compatibility procedures, explain the new procedures the Department will use to ensure compliance and compatibility.**

Not applicable

  
Division

  
Intergovernmental Coord.

10-6-93  
Date

**Oregon Department of Environmental Quality  
Air Quality Industrial Source Control Advisory Committee  
Members**

Chair

Arno Denecke  
Salem, OR

Environmental

Karyn Jones  
Citizens for Environmental Quality  
Hermiston, OR

Ex Officio

Don Arkell  
Lane Regional Air  
Pollution Authority  
Springfield, OR

Public-at-Large

Janet Neuman  
Lewis and Clark College  
Northwestern School of Law  
Portland, OR

Environmental

John Charles  
Oregon Environmental Council  
Portland, OR

Pulp and Paper and Wood Products

Bob Prolman  
Weyerhaeuser Company  
Tacoma, WA

Electronics

Bonnie Gariepy  
Intel Corporation  
Hillsboro, OR

Public-at-Large

Joe Weller  
Hillsboro, OR

Regulated Community

Candee Hatch  
CH<sub>2</sub>M Hill  
Portland, OR

Industry

Jim Whitty  
Associated Oregon Industries  
Salem, OR

Air Toxics

Day Morgan  
Tigard, OR

**Proxies**

Annette Liebe, Oregon Environmental Council, Portland, OR, for John Charles

Bob Palzer, Sierra Club, Portland, OR, for Joe Weller

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal  
for  
Federal Operating Permit Program Fee Rules

## Rule Implementation Plan

### Summary of the Proposed Rule

The proposed rules will establish procedures and a fee schedule for assessment of fees from major air quality industrial sources subject to the federal operating permit program. The proposed rules will also update the existing asbestos regulations to include federal asbestos survey requirements applicable to Federal Operating Permit Program sources.

### Proposed Effective Date of the Rule

The Department proposes that the following temporary rules and amendments to existing rules go into effect on the date the rules are adopted by the Commission. It is essential that these rules are effective prior to submittal of the Department's Federal Operating Permit Program to EPA. The submittal is due to EPA before November 15, 1993.

- OAR 340-28-110 (Amendments to Division 28, Stationary Source Air Pollution Control and Permitting Procedures, Definition Rules)
- OAR 340-28-1720, 340-28-1730, 340-28-1750 (Amendments to Air Contaminant Discharge Permit Fees)
- OAR 340-28-2570 (Supplemental Interim Emission Fee Assessment)
- OAR 340-14-050 (Amendments to Enforcement Procedures and Civil Penalties, Air Quality Classification of Violations Rule)
- OAR 340-32-5590 and 340-32-5610 (Asbestos Survey Requirements).

The Department proposes that the remaining rules related to the federal operating permit program (Emission fee rules and annual base fee rules, OAR 340-28-2560 through 340-28-2720) become effective one year from filing Oregon's Federal Operating Permit Program with EPA. The Department plans to submit this program to EPA by November 15, 1993 and therefore the emission and base fees will likely be effective in November 1994.

### **Proposal for Notification of Affected Persons**

The Department will notify all major sources subject to these new fee rules shortly after the temporary rules are adopted. "Air Time", the Air Quality Division's quarterly newsletter, contains an article about the new fees in the fall edition. The new asbestos requirements will be included in the Air Quality Division's Asbestos Newsletter that is distributed to contractors, building owners and asbestos professionals.

### **Proposed Implementing Actions**

There are a number of implementing actions planned related to the fee rules. A data system is under development by the Department to track fees and emissions, among other elements of the new Federal Operating Permit Program. The Air Quality Division staff will work with the Department's Business Office to develop invoicing forms and procedures. Forms and instructions will be developed for sources to use to determine which fees apply and how to report emissions.

The asbestos survey requirements will be implemented as applicable requirements under the Federal Operating Permit Program.

### **Proposed Training/Assistance Actions**

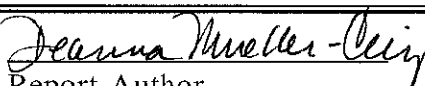
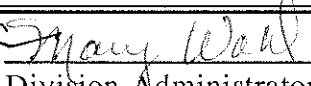
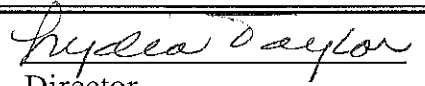
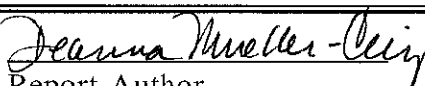
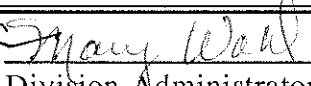
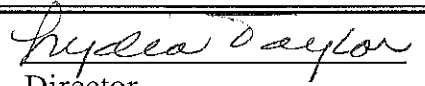
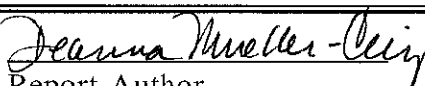
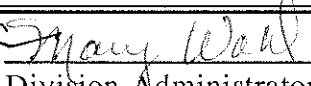
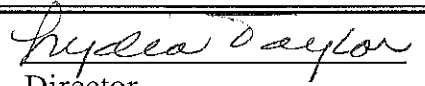
DEQ will develop instruction materials and forms for the Permit Writer's Manual and Source Guidance Manual related to the requirements of this rule. The Department also intends to conduct training seminars for affected persons on these and other rules in 1994 and 1995.

In early 1994, Department staff will work with a pilot group of sources to test the fee forms and instructions. These materials will then be revised.

# Environmental Quality Commission

- Rule Adoption Item
- Action Item
- Information Item

Agenda Item G  
October 29, 1993 Meeting

<b>Title:</b> <p style="margin-left: 40px;">Proposed Adoption of Temporary Rule to Amend Rules for Municipal Solid Waste Landfills to Extend the Effective Date of Federal Criteria</p>			
<b>Summary:</b> <p style="margin-left: 40px;">The proposed temporary rule amendments would revise the Department's solid waste rules to extend the effective dates for federal solid waste criteria (40 CFR Part 258, "Subtitle D") for some municipal solid waste landfills, to conform with a federal extension of the effective dates.</p>			
<b>Department Recommendation:</b> <p style="margin-left: 40px;">Adopt the temporary rule revisions as presented in Attachment A of the staff report.</p>			
<table style="width: 100%; border: none;"><tr><td style="width: 33%; text-align: center; vertical-align: bottom;"> Report Author</td><td style="width: 33%; text-align: center; vertical-align: bottom;"> Division Administrator</td><td style="width: 33%; text-align: center; vertical-align: bottom;"> Director</td></tr></table>	 Report Author	 Division Administrator	 Director
 Report Author	 Division Administrator	 Director	

October 11, 1993

†Accommodations for disabilities are available upon request by contacting the Public Affairs Office at (503)229-5317(voice)/(503)229-6993(TDD).

State of Oregon  
Department of Environmental Quality

Memorandum<sup>†</sup>

Date: October 10, 1993

To: Environmental Quality Commission  
From: Fred Hansen, Director *Judicia Taylor*  
Subject: Agenda Item G, October 29, 1993, EQC Meeting

Temporary Rule: Revision of Solid Waste Rules for Municipal Solid Waste Landfills, Extending Effective Date of Federal Criteria

**Background**

The proposed temporary rule would revise the Department's solid waste rules to extend the effective dates for federal solid waste disposal criteria for some municipal solid waste landfills, to conform with a federal extension of the effective dates.

The following sections summarize the issue that this proposed rulemaking action is intended to address, the authority to address the issue, the process for development of the rulemaking proposal including alternatives considered, a summary of how the rule will work and how it is proposed to be implemented, and a recommendation for Commission action.

**Issue this Proposed Rulemaking Action is Intended to Address**

The Environmental Protection Agency (EPA) issued a final rule on October 1, 1993 amending 40 CFR Part 258, Solid Waste Disposal Facility Criteria ("Subtitle D"). The effect of this rule is to delay the effective date of Subtitle D for six months for certain "small" municipal solid waste landfills, and for two years for "very small" landfills meeting small community landfill exemption criteria. The effective date for financial assurance requirements and certain other effective dates are also delayed. The new rule also modifies the timing of compliance with the closure requirements for landfills that cease receipt of waste prior to the effective date.

Before this rule amendment, the federal effective dates were October 9, 1993 for all municipal solid waste landfills (for location, operating and design criteria), and April 9, 1994 for financial assurance.

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<sup>†</sup>Accommodations for disabilities are available upon request by contacting the Public Affairs Office at (503)229-5317(voice)/(503)229-6993(TDD).



On March 5, 1993 the Environmental Quality Commission adopted the Subtitle D criteria by reference in OAR 340 Division 94, including the October 9, 1993 effective date. If the Department's rule is not amended to incorporate the new federal delay, Oregon will be more stringent than federal requirements concerning the effective dates for compliance with the Subtitle D criteria.

### Relationship to Federal and Adjacent State Rules

1. Federal. The proposed rule amendment would make the State effective dates for the Subtitle D criteria identical to the federal effective dates (except for financial assurance for new facilities, which is required at the time the permit is issued by 1993 Senate Bill 1012). The Department's intent has always been to use the federal effective dates for the Subtitle D criteria.
2. Adjacent States. *Washington.* Washington promulgated final rules implementing Subtitle D on October 8, 1993, including the October 9, 1993 effective date. The Washington Department of Ecology's rule adoption schedule does not allow them to amend the effective dates based upon EPA's proposed revision. State officials intend to review the final federal rule to determine if there would be advantages to Washington in adopting any of the federal time extensions. However, operators of all municipal solid waste landfills are expecting to have to comply with the October 9, 1993 date. State officials do not anticipate any particular hardships from keeping this effective date.

*California.* The State of California intends to adopt the six-month delay for "small" landfills, and the one-year delay in financial assurance requirements for all landfills. California's rulemaking procedure for implementation of Subtitle D is still underway, so the new effective dates can be incorporated before October 9, 1993. California never intended to allow an exemption for very small landfills serving certain small communities, because of groundwater concerns. Therefore, all "very small" landfills will be granted a six-month delay, the same as other "small" landfills, but not a two-year delay.

*Nevada.* Nevada's intention is for its state rules to conform to the revised EPA effective dates. Nevada officials requested that their State Environmental Commission adopt the EPA proposed rule revisions at the Commission's September 22, 1993 meeting. If necessary, Nevada officials will then request further rule revisions at a future Commission meeting.

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*Idaho.* Idaho has not adopted state rules to implement Subtitle D. Rather, the Idaho legislature passed a statute containing such detail as to make rules unnecessary. The October 9, 1993 effective date is also in the Idaho statute. Their statute also stipulates that the state may not be more stringent than the federal regulations. Since the Idaho legislature is not currently in session, the statute cannot immediately be amended. To deal with this dilemma, state officials have decided to practice enforcement discretion, and not enforce against municipal solid waste landfill operators who are meeting the revised federal implementation dates, even though they may be in violation of state statute.

#### **Authority to Address the Issue**

These rules are adopted pursuant to the authority of Oregon Revised Statutes (ORS) 459.045, and relate to ORS Chapter 459 and 1993 Senate Bill 1012.

#### **Process for Development of the Rulemaking Proposal (including alternatives considered)**

40 CFR, Part 258 established October 9, 1993 as the effective date for Federal "Subtitle D" criteria setting standards for location, operation, design, and post-closure care for municipal solid waste landfills (MSWLFs). On March 5, 1993 the Environmental Quality Commission revised DEQ's solid waste management rules, adopting the Subtitle D criteria by reference. This included specific adoption of the October 9, 1993 general effective date.

In response to concerns expressed by many operators of smaller landfills throughout the country, EPA proposed on July 28, 1993 an extra six months for "small" MSWLFs (those receiving 100 tons or less a day of solid waste) to meet most of the criteria. EPA also proposed that "very small" landfills (receiving less than 20 tons a day, and meeting other "small community" exemption criteria) be allowed an extra two years to meet the criteria. Certain other delays were proposed. Most compliance dates would remain unchanged for "large" MSWLFs (receiving over 100 tons of solid waste a day). The final rule was promulgated by EPA on October 1, 1993.

The result is that the Subtitle D implementation date in DEQ rule is more stringent than the new federal regulation.

The Department considered the following alternatives for dealing with the issue:

1. Keep October 9, 1993 as the date by which all MSWLFs would have to comply with federal criteria.
2. Do not adopt a temporary rule revising the effective date now, but practice "enforcement discretion" to in fact allow later effective compliance dates as specified in the federal regulations. Revise the effective dates to conform with the federal dates in a later rulemaking (spring 1994) as other rule revisions are made in response to state enabling legislation for Subtitle D (SB 1012 passed by the 1993 Legislature).

Those alternatives were rejected because the Department does not wish to be more stringent than federal requirements concerning the effective dates for the federal MSWLF criteria. The option of "enforcement discretion" would place owners and operators of MSWLFs in the confusing situation of being technically out of compliance with DEQ rules, even though the Department would not require compliance with those dates.

This proposal was taken to the Solid Waste Advisory Committee at its October 7, 1993 meeting.

#### **Summary of How the Proposed Rule Will Work and How it Will be Implemented**

All Oregon municipal solid waste landfills will be affected by this rule. The implementation dates vary depending on the landfill category. The categories established in this change to Subtitle D are as follows (see Attachment D for list of landfills):

1. "Large" landfills. A municipal solid waste landfill which receives over 100 tons of solid waste a day. There are 12 such landfills in Oregon. These 12 received a total of over 2.6 million tons of solid waste in 1992, or 91 percent of the municipal solid waste disposed of in the state.
2. "Small" landfills. A municipal solid waste landfill which receives less than 100 tons of solid waste a day (35,200 tons/yr). There are 70 in Oregon, which together received about 250,000 tons of solid waste in 1992, or 9 percent of the total municipal solid waste.

3. "Very small landfills serving certain small communities" are a subset of "small" landfills. To qualify, a small landfill must meet the following federal criteria:
  - a. Dispose of less than 20 tons of solid waste a day, on an annual average; and
  - b. Have no evidence of groundwater contamination from the landfill; and
  - c. Serve a community where surface transportation is interrupted for three consecutive months preventing access to a regional solid waste facility; or
  - d. Serve a community that has no practicable waste management alternative **and** be located in an area which receives less than 25 inches of precipitation annually.

There are 56 landfills which received less than 20 tons a day (7,000 tons/yr) in 1992, or a total of about 55,000 tons. At least 12 of these landfills do not meet the other exemption criteria.

In order to take advantage of the two-year delay in effective dates, a landfill owner or operator is required by Subtitle D to make a "demonstration" that their landfill meets the criteria. The DEQ rule requires an owner or operator to make this demonstration by April 9, 1994, and to make it available to the Department on request.

The delay in effective dates does not change the fact that MSWLF owners and operators will have either to make considerable investments in order to meet the new federal criteria, or to close. However, it does provide additional time for smaller landfills to acquire sufficient capital and resources to either upgrade their facilities or close and find an alternative waste management option.

Changes in effective dates:

1. Effective date for compliance with criteria for MSWLF location, operation and design changed from October 9, 1993 to:

- a. For "small" landfills (receiving less than 100 tons of solid waste a day): April 9, 1994.
  - b. For "very small" landfills meeting the small community landfill exemption criteria: October 9, 1995.
  - (c. For "large" landfills [receiving over 100 tons of solid waste a day]: no change.)
2. Date by which landfill closure activities must be complete if the MSWLF stops receiving waste by the effective date for the MSWLF to be exempt from Subtitle D criteria changed from April 9, 1994 to:
- a. For "small" and "large" landfills: October 9, 1994.
  - b. For "very small" landfills: October 9, 1996.
3. Date by which financial assurance requirements must be met changed from April 9, 1994 to:
- a. For existing "small" and "large" landfills: April 9, 1995.
  - b. For existing "very small" landfills: October 9, 1995.
  - c. For new landfills (any size): no later than the time the solid waste permit is issued by the Department. (As required by 1993 SB 1012)
4. Date by which groundwater monitoring must be implemented:
- a. For "very small" landfills: previously exempt from this requirement. Now, October 9, 1995, if located less than two miles from a drinking water intake; or October 9, 1996 if located greater than two miles from a drinking water intake.
  - (b. For "large" and "small" landfills: no change.)

The following Table summarizes the new federal implementation dates:

	"Large" landfills	"Small" landfills	"Very small" (Serving small communities)
General effective date: (Location, operation, design, closure/post-closure)	Oct. 9, 1993	<b>Apr. 9, 1994</b>	<b>Oct. 9, 1995</b>
Closure activities to be complete if want exemption from other criteria:	<b>Oct. 9, 1994</b>	<b>Oct. 9, 1994</b>	<b>Oct. 9, 1996</b>
Groundwater monitoring & corrective action:	Before taking waste (new units); Oct. 9, 1994 - Oct. 9, 1996 (existing, & lateral expansion)	(Same as for "Large" landfills)	<2 mi fm dr. water intake: <b>Oct. 9, 1995;</b> >2 mi fm dr. water intake: <b>Oct. 9, 1996</b>
Financial assurance:	<b>Apr. 9, 1995</b>	<b>Apr. 9, 1995</b>	<b>Oct. 9, 1995</b>

Note: **Bold type** indicates change from previous Subtitle D dates.

The Department notified all municipal solid waste landfill permittees in mid-September that it intended to adopt the EPA extensions in the Subtitle D effective dates. DEQ will mail notice of the temporary rule adoption to permittees and other interested persons upon rule adoption. The compliance dates in some municipal solid waste permits may need to be modified to correspond to the new effective dates. This will be done as staff time allows.

**Recommendation for Commission Action**

It is recommended that the Commission adopt the temporary rule amendments regarding extension of the effective date of federal criteria for municipal solid waste landfills to match the federal effective date extension, as presented in Attachment A of the Department Staff Report. It is also recommended that the Commission approve the Finding of Need justifying an emergency as presented in Attachment B of the Staff Report.

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Attachments

- A. Rule Amendments Proposed for Adoption
- B. Finding of Need and Statement Justifying Emergency
- C. Advisory Committee Membership
- D. List of Municipal Solid Waste Landfills

Reference Documents (available upon request)

- 40 CFR Parts 257 and 258, Solid Waste Disposal Facility Criteria; Final Rule (Federal Register, October 9, 1991)
- 40 CFR Part 258, Solid Waste Disposal Facility Criteria; Delay of the Effective Date; Proposed Rule (July 28, 1993)
- 40 CFR Part 258, Solid Waste Disposal Facility Criteria; Delay of the Effective Date; Final Rule (Federal Register, October 1, 1993)
- ORS 459.045
- 1993 Senate Bill 1012

Approved:

Section:

Peter Spendebrun for Pat Vernon

Division:

Mary Wank

Report Prepared By: Deanna Mueller-Crispin

Phone: 229-5808

Date Prepared: October 11, 1993

dmc  
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10/11/93

ATTACHMENT A

**OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY  
PROPOSED REVISIONS TO ADMINISTRATIVE RULES**

**DIVISION 94  
SOLID WASTE: MUNICIPAL SOLID WASTE LANDFILLS  
9/24/93**

- Proposed deletions struck out and in [brackets].
- Proposed additions underlined.

**APPLICABILITY**

**340-94-001 [New Rule]**

- (1) OAR Chapter 340, Division 94 applies to municipal solid waste landfills and their appurtenances such as leachate management facilities, and to ash monofills.
- (2) The criteria adopted in OAR 340-94-010 apply to all municipal solid waste landfills which receive waste on or after October 9, 1993, unless the landfill meets the following requirements for a later effective date:[-]
  - (a) For existing municipal solid waste landfills or lateral expansions of municipal solid waste landfills that meet the conditions of 40 CFR, §258.1(e)(2) ("small landfills"): the criteria apply if the landfill receives waste on or after April 9, 1994.
  - (b) For new, existing or lateral expansions of municipal solid waste landfills that meet the conditions in 40 CFR, §258.1(f)(1) ("very small landfills serving certain small communities"): the criteria apply if the landfill receives waste on or after October 9, 1995.
- ~~[(3) Municipal solid waste landfills in which the last load of waste was received after October 9, 1991, but before October 9, 1993 and which complete installation of final cover within six months of last receipt of wastes, must comply with final cover requirements as specified in 40 CFR §258.1(d) and §258.60(a) but not with the other criteria adopted in OAR 340-94-010.]~~
- (3) Municipal solid waste landfills that receive waste after October 9, 1991 but stop receiving waste before a date certain, and which complete installation of a final cover as specified in 40 CFR, §258.60(a) by another date certain, are exempt from the other criteria adopted in OAR 340-94-010. The dates are as follows:
  - (a) All municipal solid waste landfills (unless the landfill meets the conditions under subsections (3)(b) or (3)(c) of this rule): no waste received after October 9, 1993, and installation of final cover completed by October 9, 1994;
  - (b) A "small landfill" meeting the criteria in 40 CFR, §258.1(e)(2): no waste received after April 9, 1994 and installation of final cover completed by October 9, 1994;



- (c) A "very small landfill serving certain small communities" meeting the criteria in 40 CFR, §258.1(f)(1): no waste received after October 9, 1995 and installation of final cover completed by October 9, 1996.
- (4) In order to meet the requirements for later effective dates as a "very small landfill serving certain small communities," a landfill owner or operator shall make the demonstration required in 40 CFR, §258.1(f)(2) by April 9, 1994. The owner or operator shall keep the the demonstration available for inspection by the Department.
- (5) [(4)] Persons who receive municipal solid waste but who are exempt from any or all criteria in 40 CFR, Part 258 must comply with all relevant requirements in OAR Chapter 340, Divisions 93, 94, 95, 96 and 97.

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

## **ADOPTION OF UNITED STATES ENVIRONMENTAL PROTECTION AGENCY MUNICIPAL SOLID WASTE REGULATIONS**

### **340-94-010 [New Rule]**

- (1) Except as otherwise modified or specified by OAR Chapter 340, Divisions 93 through 97, the criteria for municipal solid waste landfills, prescribed by the United States Environmental Protection Agency in Title 40, CFR, Part 258, and any amendments or technical corrections promulgated thereto as of ~~[June 26, 1992]~~ October 1, 1993 are adopted by reference and prescribed by the Commission to be observed by all persons who receive municipal solid waste and who are subject to ORS 459.005 through 459.405 and 459A.
- (2) Wherever there may be a discrepancy between requirements in 40 CFR, Part 258 as adopted by the Commission and these rules, the more protective standard shall apply.

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

## **CLOSURE AND POST-CLOSURE CARE: CLOSURE PERMITS**

### **340-94-100 [Renumbered from 340-61-028; incorporates part of 340-61-020]**

If a municipal solid waste landfill is subject to 40 CFR, Part 258 as provided in 40 CFR, §258.1, the owner or operator shall comply with closure criteria in 40 CFR, §258.60. All municipal solid waste permittees shall also comply with this rule.

- (1) [Renumbered from 340-61-020(7):] Closure Permit:
- (a) At least five years prior to anticipated closure of a municipal solid waste landfill, the person holding the disposal site permit shall apply to renew the permit to cover the period of time remaining for site operations, closure of the site, and all or part of the time that active post-closure site maintenance is required by the Department;

- (b) The person who holds or last held the disposal site permit, or, if that person fails to comply, then the person owning or controlling a municipal solid waste landfill that is closed and no longer receiving solid waste after January 1, 1980, must continue or renew the disposal site permit after the site is closed for the duration of the period in which the Department continues to actively supervise the site, even though solid waste is no longer received at the site.
- (2) [Renumbered from 340-61-028] Applications for closure permits must include but are not limited to:
- (a) A closure plan prepared in accordance with OAR 340-94-110;
  - (b) A financial assurance plan prepared in accordance with OAR 340-94-140 unless exempted by the Department pursuant to section (3) of this rule;
  - (c) If the permittee does not own and control the property, the permittee shall demonstrate to the Department that the permittee has access to the landfill property after closure to monitor and maintain the site and operate any environmental control facilities;
  - (d) If any person other than the permittee assumes any responsibility for any closure or post-closure activities, that responsibility shall be evidenced by a written contract between the permittee and each person assuming any responsibility.
- (3) The Department may exempt from the financial assurance requirements existing municipal solid waste landfills which stop receiving waste before October 9, 1993 (or before April 9, 1994, if a "small landfill" meeting criteria in 40 CFR, §258.1(e)(2)) and complete installation of final cover ~~[within six months of last receipt of wastes.]~~ by October 9, 1994. The Department may also exempt from the financial assurance requirement an existing "very small landfill serving certain small communities" meeting criteria in 40 CFR, §258.1(f)(1), if such a landfill stops receiving waste before October 9, 1995 and completes installation of final cover by October 9, 1996. To be eligible for this exemption, the applicant shall demonstrate to the satisfaction of the Department that the site meets all of the following criteria and that the site is likely to continue to meet all of these criteria until the site is closed in a manner approved by the Department:
- (a) The landfill poses no significant threat of adverse impact on groundwater or surface water;
  - (b) The landfill poses no significant threat of adverse impact on public health or safety;
  - (c) No system requiring active operation and maintenance is necessary for controlling or stopping discharges to the environment;
  - (d) The area of the landfill that has been used for waste disposal and has not yet been properly closed in a manner acceptable to the Department is less than and remains less than two acres or complies with a closure schedule approved by the Department.
- (4) In determining if the applicant has demonstrated that a site meets the financial assurance exemption criteria, the Department will consider existing available information including, but not limited to, geology, soils, hydrology, waste type and volume, proximity to and uses of adjacent properties, history of site operation and construction, previous compliance inspection reports, existing monitoring data, the proposed method of closure and the information submitted by the applicant. The Department may request additional information if needed.

- (5) An exemption from the financial assurance requirement granted by the Department will remain valid only so long as the site continues to meet the exemption criteria in section (3) of this rule. If the site fails to continue to meet the exemption criteria, the Department may modify the closure permit to require financial assurance.
- (6) While a closure permit is in effect, the permittee shall submit a report to the Department within 90 days of the end of the permittee's fiscal year or as otherwise required in writing by the Department, which contains but is not limited to:
  - (a) An evaluation of the approved closure plan discussing current status, unanticipated occurrences, revised closure date projections, necessary changes, etc.;
  - (b) An evaluation of the approved financial assurance plan documenting an accounting of amounts deposited and expenses drawn from the fund, as well as its current balance. This evaluation must also assess the adequacy of the financial assurance and justify any requests for changes in the approved plan;
  - (c) Other information requested by the Department to determine compliance with the rules of the Department.
- (7) The Department shall terminate closure permits for municipal solid waste landfills not later than ten years after the site is closed unless the Department finds there is a need to protect against a significant hazard or risk to public health or safety or the environment.
- (8) Any time after a municipal solid waste landfill is closed, the permit holder may apply for a termination of the permit, a release from one or more of the permit requirements or termination of any applicable permit fee. Before the Department grants a termination or release under this section, the permittee must demonstrate and the Department must find that there is no longer a need for:
  - (a) Active supervision of the site;
  - (b) Maintenance of the site; or
  - (c) Maintenance or operation of any system or facility on the site.
- (9) The Department or an authorized governmental agency may enter a municipal solid waste landfill property at reasonable times to inspect and monitor the site as authorized by ORS 459.285.
- (10) The closure permit remains in effect and is a binding obligation of the permittee until the Department terminates the permit according to section (7) or (8) of this rule or upon issuance of a new closure permit for the site to another person following receipt of a complete and acceptable application.

(Note: In addition to the requirements set forth in this rule, 40 CFR, §258.61 requires municipal landfill owners and operators subject to 40 CFR, Part 258 to conduct post-closure care for 30 years. Municipal solid waste landfill owners and operators are subject to the requirements of Federal law.)

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

Stat. Auth.: ORS Ch.

## FINANCIAL ASSURANCE CRITERIA

### 340-94-140 [Renumbered from 340-61-034]

If a municipal solid waste landfill is subject to 40 CFR, Part 258 as provided in 40 CFR, §258.1, the owner or operator shall comply with financial assurance criteria in 40 CFR, Part 258, Subpart G. All municipal solid waste permittees shall also comply with this rule.

- (1) Schedule for provision of financial assurance. Evidence of the required financial assurance for closure and post-closure maintenance of the landfill as determined in the financial assurance plan required by OAR 340-94-100(2)(b) shall be provided to the Department on the following schedule:
  - (a) For a new municipal solid waste landfill whose solid waste permit is issued on or after November 4, 1993: no later than the time the solid waste permit is issued by the Department;
  - (b) For a municipal solid waste landfill operating under a solid waste permit on November 4, 1993: by April 9, 1995, or at the time a financial assurance plan is required by OAR 340-94-100(2)(b), whichever is sooner; or
  - (c) For a "very small landfill serving certain small communities" meeting criteria in 40 CFR, §258.1(f)(1) and operating under a solid waste permit on November 4, 1993: by October 9, 1995, or at the time a financial assurance plan is required by OAR 340-94-100(2)(b), whichever is sooner.
- (2) [(+) ] Financial assurance plans required by OAR 340-94-100(2)(b) shall include but not be limited to:
  - (a) A written estimate of the third-party costs of:
    - (A) Closing the municipal solid waste landfill;
    - (B) Installing, operating and maintaining any environmental control system required on the landfill site;
    - (C) Monitoring and providing security for the landfill site; and
    - (D) Complying with any other requirement the Department may impose as a condition of renewing the permit.
  - (b) A detailed description of the form of the financial assurance;
  - (c) A method and schedule for providing for or accumulating any required amount of funds which may be necessary to meet the financial assurance requirement;
  - (d) A proposal to the Department for disposing of any excess moneys received or interest earned on moneys received for financial assurance. To the extent practicable, the

applicant's provisions for disposing of the excess moneys received or interest earned on moneys shall provide for:

- (A) A reduction of the rates a person within the area served by the municipal solid waste landfill is charged for solid waste collection service as defined by ORS 459.005; or
- (B) Enhancing present or future solid waste disposal facilities within the area from which the excess moneys were received.

(3) [~~2~~] Amount of Financial Assurance Required. The amount of financial assurance required shall be established based upon the estimated closure and post-closure care costs included in the approved closure plan. This required amount may be adjusted as the plan is amended:

(a) In reviewing the adequacy of the amount of financial assurance proposed by the applicant, the Department shall consider the following:

- (A) Amount and type of solid waste deposited in the site;
- (B) Amount and type of buffer from adjacent land and from drinking water sources;
- (C) Amount, type, availability and cost of required cover;
- (D) Seeding, grading, erosion control and surface water diversion required;
- (E) Planned future use of the disposal site property;
- (F) Type, duration of use, initial cost and maintenance cost of any active system necessary for controlling or stopping discharges;
- (G) The portion of the site property closed before final closure of the entire site;
- (H) Any other conditions imposed on the permit relating to closure or post-closure of the site;
- (I) The financial capability of the applicant.

(b) After reviewing the proposed amount of financial assurance, the Department may either:

- (A) Approve the amount proposed by the applicant; or
- (B) Disapprove the amount and require the applicant to submit a revised amount consistent with the factors considered by the Department.

(4) [~~3~~] Form of Financial Assurance. The financial assurance may be in any form proposed by the applicant if it is approved by the Department:

(a) The Department will approve forms of financial assurance to cover the ongoing closure activities occurring while the municipal solid waste landfill is still receiving solid waste where the applicant can prove to the satisfaction of the Department that all of the following conditions can be met:

- (A) That financial assurance moneys in excess of the amount approved by the Department will not be set aside or collected by the disposal site operator. The Department may approve an additional amount of financial assurance during a review conducted in conjunction with a subsequent application to amend or renew the disposal site permit or a request by the owner or operator of a municipal solid waste landfill to extend the useful life of the landfill. Nothing in this subsection shall prohibit a site operator from setting aside an additional reserve from funds other than those collected from rate payers specifically for closure and post-closure and such a reserve shall not be part of any fund or set aside required in the applicable financial assurance plan;
  - (B) That the use of financial assurance is restricted so that the financial resources can only be used to guarantee that the following activities will be performed or that the financial resources can only be used to finance the following activities and that the financial resources cannot be used for any other purpose:
    - (i) Close the municipal solid waste landfill according to the approved closure plan;
    - (ii) Install, operate and maintain any required environmental control systems;
    - (iii) Monitor and provide security for the landfill site;
    - (iv) Comply with conditions of the closure permit.
  - (C) That, to the extent practicable, all excess moneys received and interest earned on moneys shall be disposed of in a manner which shall provide for:
    - (i) A reduction of the rates a person within the area served by the municipal solid waste landfill is charged for solid waste collection service (as defined by ORS 459.005); or
    - (ii) Enhancing present or future solid waste disposal facilities within the area from which the excess moneys were received; or
    - (iii) Where the disposal site is operated and exclusively used to dispose of solid waste generated by a single business entity, excess moneys and interest remaining in the financial assurance reserve shall be released to that business entity at the time that the permit is terminated.
- (b) If the permittee fails to adequately perform the ongoing closure activities in accordance with the closure plan and permit requirements, the permittee shall provide an additional amount of financial assurance in a form meeting the requirements of subsection ~~[(3)(e)]~~ (4)(c) of this rule within 30 days after service of a Final Order assessing a civil penalty. The total amount of financial assurance must be sufficient to cover all remaining closure and post-closure activities;
  - (c) The Department will approve only the following forms of financial assurance for the final closure and post-closure activities which will occur after the municipal solid waste landfill stops receiving solid waste:

- (A) A closure trust fund established with an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency. The wording of the trust agreement must be acceptable to the Department. The purpose of the closure trust fund is to receive and manage any funds that may be paid by the permittee and to disburse those funds only for closure or post-closure maintenance activities which are authorized by the Department. Within 60 days after receiving itemized bills for closure activities, the Department will determine whether the closure expenditures are in accordance with the closure plan or otherwise justified and, if so, will send a written request to the trustee to make reimbursements;
- (B) A surety bond guaranteeing payment into a closure trust fund issued by a surety company listed as acceptable in Circular 570 of the U.S. Department of the Treasury. The wording of the surety bond must be acceptable to the Department. A standby closure trust fund must also be established by the permittee. The purpose of the standby closure trust fund is to receive any funds that may be paid by the permittee or surety company. The bond must guarantee that the permittee will either fund the standby closure trust fund in an amount equal to the penal sum of the bond before the site stops receiving waste or within 15 days after an order to begin closure is issued by the Department or by a court of competent jurisdiction; or that the permittee will provide alternate financial assurance acceptable to the Department within 90 days after receipt of a notice of cancellation of the bond from the surety. The surety shall become liable on the bond obligation if the permittee fails to perform as guaranteed by the bond. The surety may not cancel the bond until at least 120 days after the notice of cancellation has been received by both the permittee and the Department. If the permittee has not provided alternate financial assurance acceptable to the Department within 90 days of the cancellation notice, the surety must pay the amount of the bond into the standby closure trust account;
- (C) A surety bond guaranteeing performance of closure issued by a surety company listed as acceptable in Circular 570 of the U.S. Department of the Treasury. The wording of the surety bond must be acceptable to the Department. A standby closure trust fund must also be established by the permittee. The purpose of the standby closure trust fund is to receive any funds that may be paid by the surety company. The bond must guarantee that the permittee will either perform final closure and post-closure maintenance or provide alternate financial assurance acceptable to the Department within 90 days after receipt of a notice of cancellation of the bond from the surety. The surety shall become liable on the bond obligation if the permittee fails to perform as guaranteed by the bond. The surety may not cancel the bond until at least 120 days after the notice of cancellation has been received by both the permittee and the Department. If the permittee has not provided alternate financial assurance acceptable to the Department within 90 days of the cancellation notice, the surety must pay the amount of the bond into the standby closure trust account;
- (D) An irrevocable letter of credit issued by an entity which has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency. The wording of the letter of credit must be acceptable to the Department. A standby closure trust fund must also be established by the permittee. The purpose of the standby closure trust fund is

to receive any funds deposited by the issuing institution resulting from a draw on the letter of credit. The letter of credit must be irrevocable and issued for a period of at least one year unless the issuing institution notifies both the permittee and the Department at least 120 days before the current expiration date. If the permittee fails to perform closure and post-closure activities according to the closure plan and permit requirements, or if the permittee fails to provide alternate financial assurance acceptable to the Department within 90 days after notification that the letter of credit will not be extended, the Department may draw on the letter of credit;

(E) A closure insurance policy issued by an insurer who is licensed to transact the business of insurance or is eligible as an excess or surplus lines insurer in one or more states. The wording of the certificate of insurance must be acceptable to the Department. The closure insurance policy must guarantee that funds will be available to complete final closure and post-closure maintenance of the site. The policy must also guarantee that the insurer will be responsible for paying out funds for reimbursement of closure and post-closure expenditures after notification by the Department that the expenditures are in accordance with the closure plan or otherwise justified. The policy must provide that the insurance is automatically renewable and that the insurer may not cancel, terminate or fail to renew the policy except for failure to pay the premium. If there is a failure to pay the premium, the insurer may not terminate the policy until at least 120 days after the notice of cancellation has been received by both the permittee and the Department. Termination of the policy may not occur and the policy must remain in full force and effect if: the Department determines that the land disposal site has been abandoned; or the Department has commenced a proceeding to modify the permit to require immediate closure; or closure has been ordered by the Department, Commission or a court of competent jurisdiction; or the permittee is named as debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code; or the premium due is paid. The permittee is required to maintain the policy in full force and effect until the Department consents to termination of the policy when alternative financial assurance is provided or when the permit is terminated;

(F) A private corporation meeting the financial test may provide a corporate guarantee that closure and post-closure activities will be completed according to the closure plan and permit requirements. To qualify, a private corporation must meet the criteria of either subparagraphs (i) or (ii) of this paragraph:

(i) Financial Test. To pass the financial test, the permittee must have:

(I) Two of the following three ratios: A ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; or a ratio of current assets to current liabilities greater than 1.5;

(II) Net working capital and tangible net worth each at least six times the sum of the current closure and post-closure cost estimates;

(III) Tangible net worth of at least \$10 million; and



(IV) Assets in the United States amounting to at least 90 percent of its total assets or at least six times the sum of the current closure and post-closure cost estimates.

(ii) Alternative Financial Test. To pass the alternative financial test, the permittee must have:

(I) A current rating of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Bbb as issued by Moody's;

(II) Tangible net worth at least six times the sum of the current closure and post-closure cost estimates;

(III) Tangible net worth of at least \$10 million; and

(IV) Assets in the United States amounting to at least 90 percent of its total assets or at least six times the sum of the current closure and post-closure cost estimates.

(iii) The permittee shall demonstrate that it passes the financial test at the time the financial assurance plan is filed and reconfirm that annually 90 days after the end of the corporation's fiscal year by submitting the following items to the Department:

(I) A letter signed by the permittee's chief financial officer that provides the information necessary to document that the permittee passes the financial test; that guarantees that the funds to finance closure and post-closure activities according to the closure plan and permit requirements are available; that guarantees that the closure and post-closure activities will be completed according to the closure plan and permit requirements; that guarantees that the standby closure trust fund will be fully funded within 30 days after either service of a Final Order assessing a civil penalty from the Department for failure to adequately perform closure or post-closure activities according to the closure plan and permit, or service of a written notice from the Department that the permittee no longer meets the criteria of the financial test; that guarantees that the permittee's chief financial officer will notify the Department within 15 days any time that the permittee no longer meets the criteria of the financial test or is named as debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code; and that acknowledges that the corporate guarantee is a binding obligation on the corporation and that the chief financial officer has the authority to bind the corporation to the guarantee;

(II) A copy of the independent certified public accountant's report on examination of the permittee's financial statements for the latest completed fiscal year;

(III) A special report from the permittee's independent certified public accountant (CPA) stating that the CPA has compared the data which the letter from the permittee's chief financial officer specifies as having been derived from the independently audited year end financial statements for the latest fiscal year with the amounts in such financial statement, and that no matters came to the CPA's attention which caused the CPA to believe that the specified data should be adjusted;

(IV) A trust agreement demonstrating that a standby closure trust fund has been established with an entity which has authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency. The wording of the trust agreement must be acceptable to the Department.

(iv) The Department may, based on a reasonable belief that the permittee no longer meets the criteria of the financial test, require reports of the financial condition at any time from the permittee in addition to the annual report. If the Department finds, on the basis of such reports or other information, that the permittee no longer meets the criteria of the financial test, the permittee shall fully fund the standby closure trust fund within 30 days after notification by the Department.

(G) Alternative forms of financial assurance where the applicant can prove to the satisfaction of the Department that the level of security is equivalent to paragraphs (A) through (F) of this subsection and that the criteria of subsection ~~[(3)(a)]~~ (4)(a) of this rule are met.

(5) ~~[(4)]~~ Accumulation and use of any financial assurance funds:

- (a) The applicant shall set aside funds in the amount and frequency specified in the financial assurance plan approved by the Department. The total amount of financial assurance required shall be available in the form approved by the Department at the time that solid waste is no longer received at the site;
- (b) The financial assurance plan shall contain adequate accounting procedures to insure that the disposal site operator does not collect or set aside funds in excess of the amount approved by the Department or use the funds for any purpose other than required by paragraph ~~[(3)(a)(B)]~~ (4)(a)(B) of this rule;
- (c) The permittee is subject to audit by the Department (or Secretary of State) and shall allow the Department access to all records during normal business hours for the purpose of determining compliance with this rule;
- (d) If the Department determines that the permittee did not set aside the required amount of funds for financial assurance in the form and at the frequency required by the approved financial assurance plan, or if the Department determines that the financial assurance funds were used for any purpose other than as required in paragraph (3)(a)(B) of this rule, the permittee shall, within 30 days after notification by the Department, deposit a sufficient amount of financial assurance in the form required by the approved financial assurance plan along with an additional amount of financial assurance equal to the

amount of interest that would have been earned, had the required amount of financial assurance been deposited on time or had it not been withdrawn for unauthorized use.

(Note: In addition to the requirements set forth in this rule, 40 CFR, §258.61 requires municipal landfill owners and operators subject to 40 CFR, Part 258 to maintain financial assurance for costs of closure, post-closure care and corrective action. The financial assurance costs must be adjusted annually to compensate for inflation. Municipal solid waste landfill owners and operators are subject to the requirements of Federal law.)

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

Stat. Auth.: ORS Ch.

Hist.: DEQ 2-1984, f. & ef. 1-16-84

### FINANCIAL ASSURANCE CRITERIA: REGIONAL LANDFILLS

#### 340-94-150 [Renumbered from 340-61-029]

If a municipal solid waste landfill is subject to 40 CFR, Part 258 as provided in 40 CFR, §258.1, the owner or operator shall comply with financial assurance criteria in 40 CFR, Part 258, Subpart G. All permittees of regional disposal sites shall also comply with this rule:

- (1)
  - (a) Prior to first receiving waste, the applicant for a new regional disposal site shall submit to and have approved by the Department, a financial assurance plan. The applicant shall allow at least 90 days for Department review of the submitted plan. For purposes of this rule "new regional disposal site" is a regional disposal site which has received no waste prior to January 1, 1988;
  - (b) Regional disposal sites existing on January 1, 1988 must submit to the Department a financial assurance plan with their application for renewal of the existing solid waste disposal permit at least three months prior to permit expiration;
  - (c) The financial assurance plan must be in accordance with [~~OAR 340-94-140(1)(a), (b) and (c).~~] OAR 340-94-140(2)(a) through (d).
- (2) The total amount of financial assurance to be provided shall be the greater of:
  - (a) The sum of closure and post-closure estimated costs as approved by the Department; or
  - (b) \$1,000,000.
- (3)
  - (a) The Department will approve only forms of financial assurance which are listed in [~~OAR 340-94-140(3)(c) (A) through (G).~~] OAR 340-94-140(4)(c) (A) through (G).
  - (b) If the financial assurance plan provides for accumulation of the total amount over a period of time, the time shall not exceed five years from startup or renewal of the permit.

- (4) The financial assurance plan must be evaluated by the applicant at least once each five years or sooner if there is a significant change in the operational plan for the regional landfill. The applicant must provide to the Department financial assurance in an amount sufficient for the revised financial assurance plan.
- (5) Financial assurance shall provide that the Department may use a portion or all of the financial assurance to cover study/repair and remedial action to address pollution of air or water off the landfill site provided that:
  - (a) The permittee has been properly notified of the problem requiring remedial action and given a time period based on the severity of the discharge for correction;
  - (b) The permittee fails to respond to the notice;
  - (c) It can be demonstrated that the permittee has exhausted other sources of revenue.
- (6) If the Department requires use of the financial assurance for remedial action, the permittee shall submit a plan within three months to re-establish the fund.
- (7) If a financial assurance is provided under [~~OAR 340-94-140(3)(e)(A), (B) or (G)~~] OAR 340-94-140(4)(c)(A), (B) or (G) upon successful closure and release from permit requirements by the Department, any excess money in the financial assurance account must be used in a manner consistent with [~~OAR 340-94-140(3)(a)(C)~~] OAR 340-94-140(4)(a)(C).
- (8) The permittee is subject to audit by the Department and shall allow the Department access to all records relating to closure plan and other financial records if financial assurance consists of the requirements of [~~OAR 340-94-140(3)(e)(A), (B) or (G)~~] OAR 340-94-140(4)(c)(A), (B) or (G).

(Note: In addition to the requirements set forth in this rule, 40 CFR, §258.61 requires municipal landfill owners and operators subject to 40 CFR, Part 258 to maintain financial assurance for costs of closure, post-closure care and corrective action. The financial assurance costs must be adjusted annually to compensate for inflation. Municipal solid waste landfill owners and operators are subject to the requirements of Federal law.)

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

Stat. Auth.: ORS Ch. 459.235(3)

Hist.: DEQ 18-1988, f. & cert. ef. 7-13-88 (and corrected 2-3-89); DEQ 32-1989(Temp), f. & cert. ef. 12-14-89; DEQ 16-1990, f. & cert. ef. 4-26-90 (and corrected 5-21-90)

ATTACHMENT B

STATE OF OREGON  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
811 S.W. 6TH AVENUE  
PORTLAND, OREGON

"Finding of Need and Statement Justifying Emergency"

TEMPORARY RULE REVISING EFFECTIVE DATE  
OF FEDERAL CRITERIA FOR MUNICIPAL SOLID WASTE LANDFILLS

In accordance with ORS 183.335(5), the undersigned Director of the Department of Environmental Quality makes the following findings and declarations in support of the issuance of a temporary rule relating to the extension of the effective dates for federal solid waste disposal criteria for some municipal solid waste landfills, to conform with a federal extension of the effective dates:

- (1) ORS 459.045 authorizes the Environmental Quality Commission to adopt reasonable and necessary solid waste management rules;
- (2) On October 9, 1991 the United States Environmental Protection Agency (U.S. EPA) issued, at 40 CFR Part 258 ("Subtitle D"), a final rule establishing criteria for location, design, operation, groundwater monitoring, corrective action, financial assurance, and closure and post-closure care of municipal solid waste landfills. The effective date for most of the criteria was October 9, 1993. Some criteria (financial assurance, groundwater monitoring) had later effective dates;
- (3) On March 5, 1993 the Environmental Quality Commission revised the Department of Environmental Quality's (DEQ) rules for solid waste management (OAR Chapter 340, Divisions 93 through 97), which incorporated by reference the federal criteria. The adopted rule included the October 9, 1993 effective date;
- (4) On October 1, 1993 U.S. EPA promulgated final revisions to 40 CFR Part 258 which delayed the Subtitle D effective dates for certain municipal solid waste landfills for six months to two and a half years. The result is that DEQ rule requires municipal solid waste landfills to comply with federal requirements sooner than required by U.S. EPA regulations. The delay in effective dates allows smaller landfills more time to acquire sufficient capital and resources to either upgrade their facilities or close and find an alternative waste management option. DEQ does not wish to be more stringent than U.S. EPA in applying the federal criteria;

- (5) Failure to act promptly will result in the DEQ solid waste rules containing dates which the Department does not intend to enforce for the great majority of municipal solid waste landfills. Operators of these landfills would be in the confusing situation of being technically out of compliance with DEQ rules while DEQ practiced enforcement discretion in not requiring compliance with those dates.
- (6) The rule is needed to make the effective dates for Subtitle D criteria in DEQ rules conform with U.S. EPA dates so that municipal solid waste landfill permittees will clearly be able to take advantage of the delay in effective dates allowed by the new federal regulation.

Principal documents relied upon:

- (1) 40 CFR Parts 257 and 258, Solid Waste Disposal Facility Criteria; Final Rule (Federal Register, October 9, 1991)
- (2) 40 CFR Part 258, Solid Waste Disposal Facility Criteria; Delay of the Effective Date; Proposed Rule (July 28, 1993)
- (3) 40 CFR Part 258, Solid Waste Disposal Facility Criteria; Delay of the Effective Date; Final Rule (Federal Register, October 1, 1993)
- (4) ORS 459.045
- (5) 1993 Senate Bill 1012

Adopted by the Environmental Quality Commission

Dated: \_\_\_\_\_

\_\_\_\_\_  
William W. Wessinger, Chair

fndgnd.tem

**SOLID WASTE ADVISORY COMMITTEE MEMBERS**

Gail Achterman, (Chair)  
Stoel, Rives, Boley, Jones  
and Grey

Craig Starr  
Lane County Public Works  
AOC

Daniel Kearns, (Vice-Chair)  
Oregon Environmental Council

Robert Emrick  
Riverbend Landfill

Susan Keil  
City of Portland  
LOC

Pamela Brown  
Christianson Electric

Bob Martin  
Metropolitan Service District

John Drew  
Far West Fibers

Rick Paul  
Association of Oregon Recyclers

Richard Barrett  
Willamette Industries

Kathy Thomas  
Thomas Wright Inc.

Peter Truitt  
Truitt Brothers, Inc.

Lauri Aunan  
OSPIRG

Bruce Bailey  
Bend Garbage & Recycling Company  
OSSI

Sandra Bishop  
League of Women Voters

Doug Coenen  
Oregon Waste Systems, Inc.

## ATTACHMENT D

### MUNICIPAL SOLID WASTE LANDFILLS

Landfill categories:

1. "Large:" landfills receiving over 100 tons of solid waste per day (>35,200 tons/yr)

<u>Name</u>	<u>Tonnage (CY 1992)</u>
Coffin Butte Sanitary Landfill	209,972
Columbia Ridge	1,190,686
Finley Buttes Landfill	182,332
Grants Pass Landfill	38,599
Hillsboro Landfill	195,563
Klamath Falls Landfill	60,689
Knott Pit Landfill	55,827
Northern Wasco County Landfill	63,486
Riverbend Landfill	194,687
Roseburg Landfill	78,925
Short Mountain Landfill	277,842
Southstage Landfill	79,802
Total, "Large landfills":      12 facilities	 2,628,410

2. "Small:" Landfills receiving 100 tons a day or less

2.a. Between 20 tons/day and 100 tons/day (7,300 to 36,500 tons/yr):

Agate Beach	21,400
Ashland	18,900
Baker Sanitary	7,500
Crook Co. LF	8,400
Dry Creek	9,700
Foothill San. LF	8,700
Fox Hill	18,000
Kerby	9,000
Lakeview Disp.	8,700
Negus San. LF	16,300
Pendleton LF	25,800
Reedsport	11,400
So. Lincoln	9,100
Umatilla Butte	29,100
Sub-total:                      14 facilities	 202,000



2.b. Sub-set: "Very small landfills," less than 20 tons/day (7,300 tons/yr)

(May qualify for "small community exemption" in 40 CFR §258.1(f)(1))

<u>Name</u>	<u>Tonnage (CY 1992)</u>
Adel Disp Site	62
Andrews	37
Ant Flat	6,600
Antelope	47
Bandon	4,400
Beatty	185
Bly Disp Site	340
Box Canyon	4,800
Brothers HW	17
Burns-Hines	2,000
Chemult	600
Christmas Valley	125
Crane Disp Site	250
Crescent LF	1,500
Dayville Disp	500
Diamond Disp	73
Drewsey	93
Fields	50
Fort Rock	230
Fossil	400
Frenchglen	34
Haines LF	420
Halfway Disp	400
Hendrix LF	2,400
Huntington	500
Imnaha Disposal	100
Jordan Valley	200
Juntura	20
Long Creek LF	255
Lytle Blvd	5,900
Malin LF	340
McDermitt	150
Milton-Freewater	4,600
Mitchell	210
Monument LF	155
North Lincoln	3,400
No. Marion Co.	5,200

Paisley Disp		172
Pilot Rock LF		1,800
Plush		78
Prairie City		700
Prospect San LF		900
Rahn's San LF		1,900
Richland Disp.		72
Riley Disp Site		31
Seneca		190
Shaniko		25
Sherman Co. LF		900
Silver Lake		125
Sod House		46
Sprague River		300
Spray		150
Summer Lake		125
Troy Disp Site		125
Umatilla Depot		125
Unity San LF		200

Sub-total:                    56 facilities                    54,557

Total, "small landfills":    70 facilities                    256,557

GRAND TOTAL, all municipal solid waste landfills: 82 facilities                    2,884,967 tons

lflst

October 29, 1993 EQC Meeting  
Agenda Item H

ATTACHMENT A (Modified 10/29/93)

**ADOPTION OF TEMPORARY RULE OAR 340-172-015**

Amend OAR 340 - Division 172 by adding:

**OAR 340-172-015 INTERIM PROGRAM BENEFITS**

Financial Assistance Program applications approved and confirmed for funding between July 1, 1993 and July 1, 1995 can only qualify for an essential services grant up to 75 percent not to exceed \$75,000 of UST project work.

(WP51\RULES\TEMP93\340172.015)  
(FROST:LDF)

# Environmental Quality Commission

- Rule Adoption Item
- Action Item
- Information Item

Agenda Item H  
October 29, 1993 Meeting

**Title:**


Adoption of a Temporary Rule to Limit UST Financial Assistance to Essential Service Grants of 75 Percent, not to exceed \$75,000.


**Summary:**


The 1993 Oregon Legislature amended the Underground Storage Tank (UST) Financial Assistance Program and provided funding from lottery funds by adoption of House Bill 2776 and Senate Bill 81. While the legislature intended to use the lottery funds to implement only the essential service grants portion of the UST Financial Assistance Program during the 1993/1994 biennium, this intent was not included in either bill. This proposed rule limits expenditure of lottery fund to essential service grants of 75 percent, not to exceed \$75,000 of UST project work. The temporary rule is necessary to allow the Department to issue approximately 10 essential service grants funded by lottery funds prior to adoption of final rules in January 1994.

**Department Recommendation:**

It is recommended that the Commission adopt the temporary rule as presented in Attachment A. It is also recommended that the Commission adopt the Statement of Need and Findings of Fact in Attachment C.

  
Report Author

  
Division Administrator

  
Director

October 14, 1993 †Accommodations for disabilities are available upon request by contacting the Public Affairs Office at (503)229-5317(voice)/(503)229-6993(TDD).

State of Oregon  
Department of Environmental Quality

Memorandum<sup>†</sup>

Date: October 12, 1993

To: Environmental Quality Commission  
From: Fred Hansen, Director *Hydia Taylor*  
Subject: Agenda Item H, October 29, 1993, EQC Meeting

Adoption of a Temporary Rule to Limit Underground Storage Tank  
Financial Assistance to Essential Service Grants of 75 Percent, not to  
exceed \$75,000.

**Background**

The 1993 Oregon Legislature amended the Underground Storage Tank (UST) Financial Assistance Program and provided funding from lottery funds by adoption of House Bill 2776 and Senate Bill 81. The amendments will require the Department to modify existing UST Financial Assistance rules. The legislature intended to provide essential service grants for upgrading retail motor fueling facilities that are either the only facility in town or are the only retail facility within 9 miles. In addition, the tank owner of these Tier 4 facilities must prove financial need. The change to limit financial assistance to existing commitments and new Essential Service grants was inadvertently left out of SB 81. Thus, the Department must rely upon the legislative record (Attachment B) to show that new Essential Services grants and past commitments are the only appropriate expenses for the lottery funds.

The Department intends to adopt final rules to implement HB 2776 and SB 81 at the January, 1994 Environmental Quality Commission (EQC) meeting. The public would be better served, however, if the Department could approve and fund projects in the months between now and January 1994. The proposed temporary rule will allow the Department to approve and fund approximately ten Tier 4 projects between now and adoption of final rules. Under the proposed rule, Tier 4 projects can receive Essential Service grants of 75 percent, not to exceed \$75,000 for project work to replace or upgrade underground storage tanks and to cleanup petroleum contaminated soil and groundwater.

The following sections summarize the issue addressed by this rulemaking action, the authority to address the issue, the process for development of the rulemaking proposal, a

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<sup>†</sup>Accommodations for disabilities are available upon request by contacting the Public Affairs Office at (503)229-5317(voice)/(503)229-6993(TDD).

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summary of how the rule will work, how it is proposed to be implemented, and a recommendation for Commission action.

### **Issues this Proposed Rulemaking Action are Intended to Address**

SB 1215 (Chapter 863, Oregon Laws 1991) established a program of grants, loan guarantees, reduced interest rates on commercial loans and insurance premium co-payments to financially assist persons with underground storage tanks holding motor fuel for resale to comply with new environmental regulations. The proposed program funding, a 1.1 cent per gallon of gasoline fee, was found to be constitutionally dedicated to the Highway Fund, thus the assessment could not be used for underground storage tank financial assistance. The 1993 Oregon Legislature modified the UST financial assistance program benefits (HB 2776), provided \$4,420,000 in Lottery funds (SB 81) and referred to the voters a provision (HJR 69) that, if approved, will allow gasoline taxes to be used for underground storage tank financial assistance and site remediation.

It was the intent of various legislative committees that lottery funds only be used for existing approved financial assistance projects and newly approved Essential Service grants at the revised level of 75 percent, not to exceed \$75,000. The previous essential service grant level was 85 percent, not to exceed \$85,000. The Department, however, cannot approve or fund new projects until a rule is adopted to restrict funding to Essential Service grants at this new level. The public is best served by providing Essential Service grants to these retail service stations in small communities now, rather than waiting for completion of the permanent rule in January, 1994. Adoption of the proposed temporary rule will allow the Department to approve and fund approximately 10 Essential Service grants prior to adoption of the permanent rule.

### **Relationship to Federal and Adjacent State Rules**

The UST financial assistance program established by SB 1215 and the subsequent modification by HB 2776 and SB 81 has no federal counterpart. Washington has established an UST reinsurance program, Idaho has established an UST insurance fund and California has established an UST corrective action fund to deal with soil and groundwater contamination. None of the three states have a comprehensive financial assistance program similar in scope to Oregon's UST financial assistance program.

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### **Authority of the Commission with Respect to the Issue**

ORS 468.020 authorizes the Commission to adopt such rules and standards as it considers necessary and proper for performing the functions vested by law in the Commission. Adopting the rule limiting financial assistance to a Essential Service grant of 75 percent, not to exceed \$75,000 is within the Commission's authority.

### **Process for Development of The Rulemaking Proposal (including alternatives considered)**

During the legislative session, DEQ staff have been available to assist both the legislature and representatives of the Western States Petroleum Association (major petroleum suppliers), Oregon Petroleum Marketers Association (petroleum distributors and retailers), and the Oregon Gasoline Dealers Association and PETRO (petroleum retailer associations) to develop a viable, stable funding source for the UST financial assistance program. HB 2776, SB 81 and HJR 69 were the results of these efforts.

The Department considered proceeding without a temporary rule or proposing a temporary rule. It is very clear that the legislature was concerned about lack of funding for the UST financial assistance program and the threat that retail motor fuel facilities would disappear in the rural areas of the state. The construction time between now and final rule implementation will be wasted unless the temporary rule is adopted.

### **Summary of How the Proposed Rule Will Work and How it Will be Implemented**

Upon adoption of the rule limiting funding of new projects to Essential Service grants of 75 percent, not to exceed \$75,000 the Department will proceed to fund construction projects this fall.

A final rule along with rules implementing the other program changes required by HB 2776 and SB 81 will be considered at the January 1994 Commission meeting.

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**Recommendation for Commission Action**

It is recommended that the Commission adopt the temporary rule as presented in Attachment A. It is also recommended that the Commission adopt the Statement of Need and Findings of Fact in Attachment C.

**Attachments**

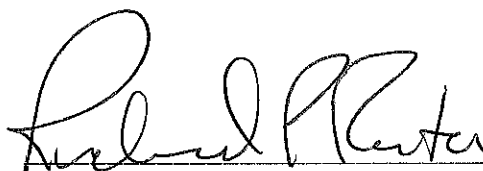
- A. Temporary Rule Proposed for Adoption
- B. Legislative Record, HB 2776 and SB 81
- C. Statement of Need and Findings of Fact
- D. Fiscal and Economic Impact Statement

**Reference Documents (available upon request)**

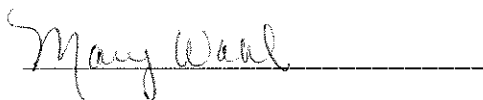
Oregon Revised Statutes Chapter 468  
Chapter 863, Oregon Laws 1991 (SB 1215)  
Chapter 661, Oregon Laws 1993 (HB 2776)  
Chapter 765, Oregon Laws 1993 (SB 81)  
House Joint Resolution 69, 1993 (HJR 69)

Approved:

Section:



Division:



Report Prepared By: Larry Frost

Phone: 229-5769

Date Prepared: October 7, 1993



October 29, 1993 EQC Meeting  
Agenda Item H

ATTACHMENT A

**ADOPTION OF TEMPORARY RULE OAR 340-172-015**

Amend OAR 340 - Division 172 by adding:

**OAR 340-172-015 INTERIM PROGRAM BENEFITS**

Financial Assistance Program applications received between July 1, 1993 and July 1, 1995 can only qualify for an essential services grant up to 75 percent not to exceed \$75,000 of UST project work.

(WP51\RULES\TEMP93\340172.015)  
(FROST:LDF)

HOUSE BILL 2776

The Underground Storage Tank Financial Assistance program adopted by the 1993 legislature was not implemented due to a legal challenge which ended in Supreme Court invalidation of its funding source, a motor vehicle fuel assessment.

HB 2776 revises the program's statutory authority in anticipation of alternative funding sources. The measure incorporates a legislative policy statement, extends program time-lines, maintains existing financial commitments, authorizes use of Lottery Funds and potential oil overcharge settlements, and decreases maximum essential service grants from \$85,000 to \$75,000. The measure also sets an election date and Ballot Title for HJR 69 which expands uses of motor vehicle fuel fees for prevention and cleanup of fuel contamination.

Implementation of the program is dependent on a lottery allocation. The House Appropriation's Lottery Subcommittee is proposing a funding level of \$4.8 million which would finance existing commitments and 48 essential service grants.

**Note to Carrier:** DEQ estimates there are some 110 stations that might apply for essential service grants.

Post-It™ brand fax transmittal memo 7671		# of pages ▶ 5
To <i>Richard Reiter</i>	From <i>Kay Hutchinson</i>	
Co. <i>DEQ</i>	Co. <i>LFO</i>	
Dept.	Phone # <i>378-8152</i>	
Fax # <i>229-6954</i>	Fax # <i>373-7807</i>	

1993 Regular Legislative Session  
FISCAL ANALYSIS OF PROPOSED LEGISLATION  
Prepared by the Legislative Fiscal Office

MEASURE NUMBER: HB 2776

STATUS: B-Engrossed

SUBJECT: Provides for transfer of lien on underground storage tank essential services grant. Modifies funding of Underground Storage Tank Compliance and Corrective Action Fund. Extends low interest loan program and insurance premium copayment program.

GOVERNMENT UNIT AFFECTED: Department of Environmental Quality, local government

PREPARED BY: Ken Rocco

REVIEWED BY: Kay Hutchison

DATE: 7/26/93

	<u>1993-95</u>	<u>1995-97</u>
<b>EFFECT ON EXPENDITURES:</b>		
Dept. of Environmental Quality		See Comments
<b>EFFECT ON REVENUES:</b>		
Local Government		Indeterminate

The measure is not anticipated in the GOVERNOR'S MANDATED BUDGET

**Note:** Funding for implementation of the program in 1993-95 is dependent on the availability and allocation of lottery funds. If lottery funds are made available, program priorities would be to fund existing financial commitments and essential services grants to Tier 4 facilities (see Comments).

**COMMENTS:**

The amended measure authorizes the Underground Storage Tank (UST) Compliance and Corrective Action Fund to accept and expend lottery revenue, federal funds, or other public or private donations for the purposes of carrying out financial assistance programs for owners and operators of motor vehicle fuel storage tanks. The measure also provides for the transfer of liens placed on property receiving essential services grants in the event the property is sold.

The UST Compliance and Corrective Action Fund previously was funded by a \$10 petroleum load fee and by a \$1.1 or \$1.2 cent per gallon assessment of motor vehicle fuels. The Oregon Supreme Court ruled the fuel assessment to be unconstitutional and the Attorney General concluded the petroleum load fee would fall under the same ruling.

The program currently has approximately \$426,500 in financial commitments for 1993-95 and \$162,500 for 1995-97 that were assumed prior to the rulings on the constitutionality of the funding mechanisms. The measure revises funding of essential services grants to a maximum of 75 percent of the authorized costs, or a maximum of \$75,000, for applicants that are the only source of motor vehicle fuel in a community (Tier 4 facilities).

Amendments to the measure prohibit local government from imposing a tax, fee, or surcharge on soil generated from remedial action or replacement of leaking underground storage tanks if financial assistance has been provided through the UST Compliance and Corrective Action Fund. Local government representatives are aware of only one local government unit currently charging supplemental fees on petroleum contaminated soils (Metropolitan Service District) that would be potentially affected by the amendments. The impact on Metro is dependent on the number of remedial actions or tank replacements financed through the DEQ program that would have disposed of petroleum contaminated soil at Metro facilities.

OREGON 67th LEGISLATIVE ASSEMBLY  
STAFF MEASURE SUMMARY  
House Committee on Appropriations 'A'

MEASURE: HB 2776 B-Eng.

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Title: Underground Storage Tank Financial Assistance Program  
Meeting Dates: July 22, 1993  
Prepared by: Kay Hutchison  
Date Prepared: July 23, 1993

---

Committee Action: Do Pass A-Eng with amendments.

Vote: 9 - 0; Ayes: Reps. Van Vliet, Shiprack, McTeague, Sowa, Baum, Clarno, Derfler, Tarno, Calouri

Excused: Reps. D.E.Jones, Mannix, Oakley, Gordly, Minnis

Carrier: Representative Baum

---

**WHAT THE MEASURE DOES:** House Bill 2776 B-Engrossed sets policy for the underground storage tank ('UST') financial assistance program, revises statutory authority, and extends operational dates.

**Sections 1 & 2.** Establishes legislative policy to insure the funding and support of remedial action and replacement or upgrading of UST's. Assures availability of motor fuel, creating and retaining employment and encourages tourism. Assists owners and operators of service stations in meeting high environmental compliance costs. Prohibits local governments from imposing tax, fees, or surcharges on soil removed from projects financed through the program.

**Section 3.** Allows the Environmental Quality Commission ('EQC') to deposit private and public funds into the UST Compliance and Correction Action Fund and use the money to provide financial assistance to owners and operators of underground storage tanks containing motor fuel.

**Section 5.** Authorizes the UST Compliance and Corrective Action fund to receive lottery funds and settlement monies from federal oil overcharge court cases.

**Section 6.** Extends opportunities to seek financial assistance until April 1, 1994. Extends state compliance deferral through December 31, 1996. Establishes the applicant's responsibility to determine if an imminent hazard exists.

**Section 7.** Lowers essential service grants from 85 percent (not to exceed \$85,00) to 75 percent not to exceed 75,000. Allows property lien agreement to be transferred to new owners of tanks and limits property lien agreement to property where tanks are located.

**Section 8.** Extends low interest loan program through December 31, 1996.

**Section 9.** Directs the EQC to adopt implementing rules and extends UST Financial Assistance Advisory Committee through December 31, 1996.

**Sections 10 - 12.** Extends insurance premium co-payment program through December 31, 1998.

**Section 13.** Insures this Act does not affect any financial assistance already made pursuant to Chapter 863, Oregon Laws 1991 (SB 1215).

**Sections 15-16.** Establishes Ballot Title for House Joint Resolution 69 and schedules the vote at the next primary election (1994 Primary election).

**Section 17.** Repeals the Department of Revenue's authority to collect a \$65 UST Regulatory Fee on each load of petroleum withdrawn from a storage terminal.

**Section 18.** Attaches an emergency clause making the Act effective upon passage.

**ISSUES DISCUSSED:** The need to 1) continue statutory program authority to demonstrate Oregon's compliance effort; 2) delete lottery allocation language to avoid potential conflicts with lottery allocation legislation; 3) conform conflicts with HJR 69 A-Engrossed; and 4) reduce program costs by prohibiting special local government assessments on soil removed as part of Fund financed projects.

**EFFECT OF COMMITTEE AMENDMENTS:** Prohibits local governments from levying a tax, fee, or surcharge on soils removed from projects financed under the Act. Deletes the lottery allocation and expenditure limitation provision. Conforms the election date and Ballot Measure Title to language in HJR 69 A-Engrossed.

**BACKGROUND:** Federal standards require owners and operators of underground storage tanks holding motor fuel to install leak detection and show financial responsibility, i.e. insurance, by December 31, 1993 and also corrosion protection and spill and overfill protection by December 22, 1998. Federal standards also require clean up of soil and groundwater contaminated by motor fuel.

The federal Environmental Protection Agency ('EPA') estimates that as many as 50 percent of owners and operator of underground tanks would close because of compliance costs. In Oregon, some 1,000 of 2,000 retail service stations could close by December 31, 1998.

The 1989 and 1991 Legislatures established financial assistance programs including loan guarantees, low interest loans, grant and insurance premium subsidies to assist in the cost of upgrading or replacing tanks or cleaning up environmental contamination.

The financial assistance programs were to be paid for by a 1.1 cent-per-gallon assessment on gasoline or a \$65 per load fee on all petroleum withdrawn from storage (bulk petroleum load fee). The Oregon Supreme court ruled adversely on this use of the 1.1 cent-per-gallon fee, and the Attorney General subsequently extended the Court's reasoning to the load fee.

House Bill 2776-A in combination with House Joint Resolution 69-A ('HJR 69') creates the framework for current and future funding. For the 1993-95 biennium the program, subject to the availability of lottery funds, would be limited to commitments previously made and to grants to small, rural, Tier 4 businesses most in need of financial assistance. Full program funding is depending on approval of HJR 69 and future legislative enactment of a tax measure.

ATTACHMENT C

**ENVIRONMENTAL QUALITY COMMISSION**

In the Matter of Adopting Temporary	)	Statement of
Rule OAR 340-172-015 Relating to	)	Need and
Limiting UST Financial Assistance to	)	Justification of
Essential Service Grants of 75 Percent,	)	Temporary Rule
not to exceed \$75,000.	)	

**TO: ALL INTERESTED PERSONS**

- (1) SB 1215 (Chapter 863, Oregon Laws 1991) established a financial assistance program to assist in upgrading or replacing underground storage tanks holding an accumulation of motor fuel for resale funded by a 1.1 cent per gallon of gasoline UST assessment.
- (2) On December 18, 1992 the Oregon Supreme Court determined that the 1.1 cent per gallon UST assessment on gasoline was dedicated to the Highway Fund. By operation of SB 1215 the 1.1 cent assessment was immediately repealed.
- (3) A backup \$65 UST regulatory fee on all petroleum products established by operation of SB 1215.
- (4) On March 26, 1993 the Environmental Quality Commission set the UST regulatory fee to zero dollars (\$0).
- (5) HB 2776 (Chapter 661, Oregon Laws 1993) modified SB 1215 in part by allowing funding from a variety of sources, extending the program two additional years, and limiting UST essential service grants benefits to 75 percent, not to exceed \$75,000.
- (6) SB 81 (Chapter 765, Oregon Laws 1993) provided \$4,420,000 in Oregon Lottery funds for the UST financial assistance program but through error in drafting the bill did not designate which portions of the program should be funded.
- (7) The legislature (as shown in the legislative record) intended to finance existing commitments and essential service grants for up to 48 Tier 4 sites with the lottery allocation in SB 81.

- (8) Limiting financial assistance benefits to essential service grants of 75 percent, not to exceed \$75,000 assures that only Tier 4 applicants will qualify for new financial assistance benefits.
- (9) Failure to adopt the temporary rule limiting financial assistance benefits to essential service grants of 75 percent, not to exceed \$75,000 will result in Tier 1, Tier 2, Tier 3, and Tier 4 UST sites qualifying for financial assistance benefits resulting in fewer Tier 4 sites receiving funding.

**Authority to Address the Issue**

ORS 468.020

**Documents Relied On**

Oregon Revised Statutes Chapter 468  
Chapter 863, Oregon Laws 1991 (SB 1215)  
Chapter 661, Oregon Laws 1993 (HB 2776)  
Chapter 765, Oregon Laws 1993 (SB 81)  
Legislative Record, HB 2776

**ENVIRONMENTAL QUALITY COMMISSION**

By: *Nydia K. Taylor*  
Director



October 29, 1993 EQC Meeting  
Agenda Item H

## ATTACHMENT D

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

### Rulemaking Proposal for

Adoption of a Temporary Rule to Limit Underground Storage Tank Financial Assistance to Essential Service Grants of 75 Percent, not to exceed \$75,000.

## **Fiscal and Economic Impact Statement**

### **Introduction**

The UST financial assistance program was created by the 1991 legislature to assure the availability of motor fuel throughout the state. The beneficiaries of the UST financial assistance program are owners/operators of underground storage tanks containing an accumulation of motor fuel for resale and persons who purchase motor fuel. The financial assistance program provides funds to upgrade or replace these tanks in the form of grants, loan guarantees, reduced interest rates on commercial loans and insurance premium copayments. Approximately, 800 business owner/operators submitted a Letter of Intent to apply for financial assistance for some 1,700 facility locations. Approximately 100 facilities in rural Oregon may qualify for the Tier 4 benefits, the highest level of benefits. A Tier 4 facility is defined as either the only retail service station in town or the only retail facility within 9 miles.

The funding sources for the UST financial assistance program were challenged both in the Oregon Supreme Court and the Oregon Department of Revenue, resulting in loss of funding for the program.

HB 2776 and SB 81 adopted by the 1993 Oregon legislature modifies the financial assistance program and provides funding from lottery monies. To implement these provisions and carry out the intent of the legislature it is necessary to adopt rules to limit the UST financial assistance benefits to essential service grants for Tier 4 applicants. These grants are limited to 75 Percent, not to exceed \$75,000 of the UST project costs. The remaining benefits for all Tiers would only be provided if some other funding method was found. It is estimated that up to 48 facilities could be provided with an essential service grant from the \$4,420,000 lottery funds allocated by SB 81.

Normal rule adoption takes between three to six months. During that period several Tier 4 facilities may close without the funding provided by the grant. The proposed temporary rule will allow the Department to provide essential service grants to approximately 10 ten facilities between now and final rule adoption.

### **General Public**

The smaller, rural gas stations are finding it difficult to meet environmental regulations and are closing their businesses because they cannot afford the cost of upgrading or replacing their underground storage tanks. An essential service grant allows the owner/operator to afford replacement of their underground storage tanks and continue operation of their facility. The general public will benefit from the continued availability of motor fuel in approximately 10 communities in Oregon. The general public, particularly in rural areas, may also spend less time driving to find the fewer facilities selling motor fuels.

### **Small Business**

The Environmental Protection Agency in its Regulatory Impact Statement predicted that as many as 50 percent of businesses would not be able to afford the cost of upgrading or replacing tank and cleaning up associated soil and groundwater contamination. The UST financial assistance program was intended to help pay for a portion of the costs associated with complying with federal environmental regulations. Facilities that qualify for Tier 4 benefits are small businesses that demonstrate financial need. Thus, small businesses benefit directly from the essential service grants. They would not otherwise be able to afford the cost of upgrading to meet federal underground storage tank regulations.

### **Large Business**

The petroleum business involves large oil companies reselling petroleum products to small businesses that resell to the general public. Loss of small businesses reselling motor fuel, particularly in the rural and remote areas of the state, would increase large businesses expenses to distribute motor fuel to the general public.

### **Local Governments**

Local government in the rural and remote areas of the state depend upon local retail gasoline service stations for motor fuel and other vehicle services. Local government may be required

October 29, 1993 EQC Meeting  
Fiscal and Economic Impact Statement  
Agenda Item H  
Page 3

to install their own fueling facilities if the local retail service station closes.

**State Agencies**

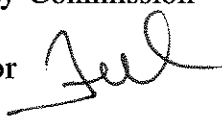
For state agencies, the impact will be similar to that described for local agencies above.

(WPS1\RULES\TEMP\93\FISCL1029.93)  
(FROST:LDF)

State of Oregon  
Department of Environmental Quality

Memorandum<sup>†</sup>

Date: October 18, 1993

To: Environmental Quality Commission  
From: Fred Hansen, Director   
Subject: Agenda Item I, October 29, 1993, EQC Meeting

Bond Issuance Resolution for Series 1994 A, B, C and D Pollution Control Bonds.

**Statement of the Issue**

The Department is seeking authorization to issue and sell not more than \$55 million in pollution control bonds. Proceeds from these bonds will be used to:

- 1) Purchase special assessment bonds (SABs) from the Cities of Portland and Gresham in an amount not to exceed \$45 million.
- 2) Provide the State match for the State Revolving Fund (SRF) in an amount not to exceed \$4 million; and
- 3) Provide \$5 million in funds for the Orphan Site Cleanup program.

The new bond sales are scheduled to take place along with a probable sale of bonds for the Department of Energy in January, 1994. The bonds sold to purchase the City of Portland SABs may be sold as a separate negotiated sale.

**Background**

1) At its June 29, 1990 meeting the Commission approved Intergovernmental Agreements between the Department and the Cities of Portland and Gresham. The agreements are part of the implementation plan for the protection of drinking water in mid-Multnomah County. The agreements establish a mechanism for financing sewer construction; it calls for the Department to purchase Special Assessment Bonds (SABs) issued by the cities with simultaneously issued State of Oregon Pollution control Bonds. To date the Department has purchased \$71.285 million in City of Portland SABs and \$5.255 million in City of Gresham SABs.

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<sup>†</sup>A large print copy of this report is available upon request.

Memo To: Environmental Quality Commission  
Agenda Item I  
October 29, 1993 Meeting  
Page 22

2) The Department estimates it will require \$4 million in State match for the SRF during the first and second quarters of calendar 1994 and \$5 million in funding for the Orphan Site cleanup program.

### **Authority to Address the Issue**

The Commission has the authority to authorize the issuance of bonds and the uses to which the proceeds may be put under ORS 468.195 -.260 and ORS 468.427(2). In addition, all proposed uses of bond proceeds are set forth in the Department's legislatively approved budget for the 1993 - 1995 biennium. The proposed amounts of the bond sale are within the bonding limits approved by the 1993 Legislature in both the Department's budget and the overall bond bill (Chapters 605 and 635, 1993 Oregon Laws.)

### **Alternatives and Evaluation**

The sale of Pollution Control Bonds is currently the only mechanism available for the financing of these programs. If the Commission does not act at its October meeting, the Department will be unable to participate in the proposed joint bond sale scheduled for January, 1994. The alternative is a later stand-alone sale by the Department which would be considerably more expensive as the costs of bond issuance would have to be borne solely by the Department, rather than be shared with another agency. The costs of an original bond issue tend to be relatively fixed and inelastic with respect to size of bond issue.

The City of Portland's "window of opportunity" for mid-Multnomah County residents to sign up for inexpensive financing of their sewer hook-ups expires at the end of December, 1993 so the City feels it will have a considerable volume of special assessments to consolidate into a SAB for sale to DEQ in early 1994.

### **Summary of Any Prior Public Input Opportunity**

The issuance of bonds and use of bond proceeds was discussed in the Governor's Recommended Budget for the 1993/95 biennium and with the Joint Legislative Committee on Ways and Means during the budget review and approval process.

In addition, there was opportunity for public input at the following Commission meetings:

May 25, 1990. Agenda Item N dealt with pollution control bonds, background on the intergovernmental agreement provisions and future bond sale for mid-Multnomah County sewers

June 29, 1990. Agenda Item O was a review of the intergovernmental agreement provisions and authorization of bond sales for mid-Multnomah County sewers.

August 10, 1990. Agenda Item M2 contained authorization to issue bonds, review of bond purchase agreements and approval for the purchase of special assessment bonds.

September 18, 1991. Agenda Item I was authorization to issue pollution control bonds.

June 1, 1992. Agenda Item J authorized issuance of pollution control bonds and purchase of special assessment bonds.

December 11, 1992. Agenda Item H authorized use of bond proceeds for SRF match, as well as SADLP, Orphan Site cleanup and purchase of special assessment bonds.

January 29, 1992. Agenda Item I authorized the issuance and sale of pollution control bonds and the purchase of special assessment bonds.

April 23, 1993. In a Special Agenda Item the Commission made the finding, necessary for the amendment of the Intergovernmental Agreement with Portland, that the Portland sewer development plan continued to be self-supporting and self-liquidating.

### Conclusions

- The Commission has the authority to authorize the bond sales and use of proceeds.
- The sale of bonds is the only mechanism available to provide funds for these programs.
- Bond proceeds will be used to finance programs authorized by the Legislature and to carry out the policy aims of the Commission
- It is more economical and efficient for the Department to participate in the January bond sale than to sell new bonds on its own at some other time.
- The January sale schedule fits the City of Portland's financing program.

Memo To: Environmental Quality Commission  
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**Recommendation for Commission Action**

It is recommended that the Commission adopt a RESOLUTION AUTHORIZING AND REQUESTING ISSUANCE OF BONDS as presented in Attachment A of the Department Staff Report together with the supporting findings presented above.

**Attachments**

A. Resolution

**Reference Documents (available upon request)**

1. ORS 468.195 to 468.260, ORS 468.427(2)
2. Chapters 605 and 635, 1993 Oregon Laws
3. OAR 340-81-005-100
4. Amended Intergovernmental Agreement between the City of Portland and DEQ.

Approved:

Section:

Beck A. Woodrow

Division:

Hydria Taylor

Report Prepared By: Barrett MacDougall

Phone: 229-5355

Date Prepared: October 18, 1993

**RESOLUTION AUTHORIZING  
AND REQUESTING ISSUANCE OF BONDS**

**Section 1. Findings.** The Environmental Quality Commission of the State of Oregon finds:

A. The Department of Environmental Quality (the "Department") is empowered to authorize and request the issuance of general obligation pollution control bonds:

1. To fund the purchase of special assessment improvement bonds or other obligations of the cities of Portland and Gresham, which those cities issue to finance sewer system improvements in mid-Multnomah County pursuant to the Mid-County Sewer Implementation Plan;
2. To fund the State's match for the State Revolving Fund program through the issuance of general obligation pollution control bonds; and,
3. To fund the Orphan Site Cleanup program.

B. It is now desirable to authorize and request the issuance of general obligation pollution control bonds for these purposes.

C. Oregon Revised Statutes, Section 286.031, provides that all bonds of the State of Oregon shall be issued by the State Treasurer.

**Section 2. Resolutions.** The Environmental Quality Commission of the State of Oregon hereby resolves:

A. The State Treasurer of the State of Oregon is hereby authorized and requested to issue State of Oregon general obligation pollution control bonds ("Pollution Control Bonds") in amounts which the State Treasurer determines, after consultation with the Director of the Department or the Director's designee, will be sufficient to provide funding for the purposes described in Section 1.A of this resolution, and to pay costs associated with issuing the Pollution Control Bonds. The Pollution Control Bonds shall mature, bear interest, be subject to redemption, be in such series, and otherwise be issued and sold upon the terms established by the State Treasurer after consultation with the Director of the Department or the Director's designee.

B. The Department shall comply with all provisions of the Internal Revenue Code of 1986, as amended (the "Code") which are required for interest on tax-exempt Pollution Control Bonds to be excludable from gross income under the Code, and shall pay any rebates or penalties which may be due to the United States under Section 148 of the Code in connection with the Pollution Control Bonds. The Director of the Department or the Director's designee may, on behalf of the Department, enter into covenants for the benefit of the owners of Pollution Control Bonds to maintain the tax-exempt status of the Pollution Control Bonds.

**Section 3. Other Action.** The Director of the Department or the Director's designee may, on behalf of the Department, execute any agreements or certificates, and take any other action the Director or the Director's designee reasonably deems necessary or desirable to issue and sell the Pollution Control Bonds and to provide funding for the purposes described in this resolution.



## Environmental Quality Commission

- Rule Adoption Item  
 Action Item  
 Information Item

Agenda Item J  
October 29, 1993 Meeting

### Title:

Pulp Mill Contested Case: Status Report and Proposed Order Extending the November 30, 1993, Deadline for Holding a Commission Hearing to Establish the Scope of Issues to be Addressed Upon Reconsideration

### Summary:

By order dated August 10, 1992, the EQC granted the petitions from the pulp mills for reconsideration of the AOX conditions of the April 16, 1992 contested case order. A subsequent hearing was to be held by the Commission between July 1, 1993 and November 30, 1993 for the purpose of further clarifying the scope of the issues to be reconsidered and determining whether to reopen the evidentiary record. The delay was to allow the mills time to complete the installation of chlorine dioxide substitution equipment and to develop and present operating data to demonstrate the capability of such equipment.

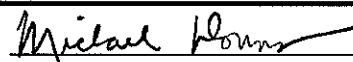
Progress reports and reconsideration proposals were submitted by the mills on July 1, 1993. The Department met with both mills to better understand their test results and seek to develop a common proposal for the reconsideration. The mills indicated that they would be willing to submit letters withdrawing their request for reconsideration of the AOX limits and withdraw their petitions for judicial review in the Court of Appeals if agreement could be reached on minor changes in the provisions of their permits. The Department has seriously pursued this potential to finally resolve the contested case and appeal issues. Based on evaluation of the data and information provided, the Department concluded that if the mills were in compliance with the AOX limit, they would be in compliance with the TCDD limit. Therefore, the Department concluded that it would be appropriate to revise the permits to provide, among other things, that compliance with the AOX limit will be deemed to be compliance with the TCDD limit. The Department has prepared proposed permits to replace the permits issued May 26, 1992. The permittees have indicated they are willing to accept the permits as rewritten.

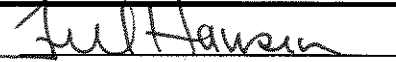
### Department Recommendation:

The Department recommends:

- 1) that the Commission concur in the proposed action to issue new permits.
- 2) that the Commission enter an order as presented in Attachment A to amend the August 10, 1992 Order Granting Petitions for Reconsideration to extend the November 30, 1993 deadline for scheduling a Commission Hearing "...for the purpose of further clarifying the scope of the issues to be reconsidered and determining whether to reopen the evidentiary record" to January 31, 1994.

  
Report Author

  
Division Administrator

  
Director


10/18/93

†Accommodations for disabilities are available upon request by contacting the Public Affairs Office at (503)229-5317(voice)/(503)229-6993(TDD).

State of Oregon  
Department of Environmental Quality

Memorandum<sup>†</sup>

Date: October 11, 1993

To: Environmental Quality Commission  
From: Fred Hansen, Director   
Subject: Agenda Item J, October 29, 1993 EQC Meeting

Pulp Mill Contested Case: Status Report and Proposed Order Extending the November 30, 1993 Deadline for Holding a Commission Hearing to Establish the Scope of Issues to be Addressed Upon Reconsideration

**Statement of Purpose**

Provide an update on the status of the Pulp Mill Contested Case.

Request issuance of an order extending the November 30, 1993 Deadline established in the August 10, 1992 Order for Holding a Commission Hearing to Establish the Scope of Issues to be Addressed Upon Reconsideration

**Background**

On November 14, 1990, DEQ issued National Pollutant Discharge Elimination System (NPDES) renewal permits to the City of St. Helens for its sewage treatment plant, and to James River Paper Company for their pulp and paper mill at Wauna. Boise Cascade Corporation operates a bleached kraft pulp and paper mill at St. Helens, which discharges process and other effluent into the City's sewage treatment plant. In addition to the normal parameters regulated, the permits also regulate the discharge of 2,3,7,8 TCDD (TCDD or dioxin) and organochlorines measured as AOX. The conditions of the City of St. Helens permit that limit discharges of TCDD and AOX are directed principally at discharges from the Boise Cascade mill. The limits for dioxin were to become effective November 15, 1993. The effective date for the AOX limits was November 15, 1995.

On December 3, 1990, both James River and the City of St. Helens requested a contested case review of permit conditions pursuant to OAR 340-45-035(9). Boise Cascade requested party status in the contested case concerning the City's permit on

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<sup>†</sup>Accommodations for disabilities are available upon request by contacting the Public Affairs Office at (503)229-5317(voice)/(503)229-6993(TDD).

December 4, 1990. Other interested organizations also requested party status in the contested cases. In the contested case proceedings, the City and the mills contested the TCDD and AOX provision of the permits.

On December 21, 1990, the Environmental Quality Commission (EQC) granted the requests for contested case hearing and later consolidated them. The EQC also granted requests for party status.

The contested case record was developed before Hearings Officer Arno Denecke. The Hearings Officer developed proposed findings of fact, conclusions of law and a proposed order for consideration by the Commission.

On April 16, 1992, the EQC considered the Hearings Officer's recommendations, and issued its Findings of Fact and Conclusions of Law and Final Order which denied in substantial part the relief requested by the mills and the City. On May 26, 1992, permits were re-issued reflecting provisions of the April 16, 1992 Order.

On June 12, 1992, the mills and the City filed petitions for reconsideration or rehearing with the EQC. These petitions were directed only at the AOX conditions of the permits.

By order dated August 10, 1992, the EQC granted the petitions for reconsideration of the AOX conditions. The reconsideration order provided that a subsequent hearing would be held by the Commission for the purpose of further clarifying the scope of the issues to be reconsidered and determining whether to reopen the evidentiary record. The order directed the Department to schedule the hearing during the period between July 1, 1993 and November 30, 1993 unless all parties agreed to an earlier date. The delay in scheduling the scoping hearing was to allow the mills time to complete the installation of chlorine dioxide substitution equipment and to develop and present operating data to demonstrate the capability of such equipment in relation to permit limits.

By letter dated August 18, 1992, Chair Wessinger clarified the expectations regarding scheduling of the scoping hearing. The letter was addressed to the mills and copies were sent to all parties in the contested case. The letter requested that the mills submit a written progress report to the Department by July 1, 1993. The progress report was to detail what had been accomplished to date, the level of performance being achieved, the detailed schedule for installation of any remaining equipment, their specific proposal for the scope of issues to be reconsidered, if any, and their proposal for reopening the evidentiary record. The mills were directed to provide copies of their reports to all of the parties in the contested case. The August 18 letter also advised the parties of their opportunity to submit their proposals for scope of the issues and reopening of the evidentiary record. Their proposals were to be submitted to the Department with copies

to the other parties within 14 days after receipt of the reports from the mills. The progress reports were received by the Department on July 1, 1993. No proposals were received from any of the other parties to the proceeding.

On October 8, 1992, Boise Cascade and the City filed petitions for judicial review and motions for a summary determination of reviewability of the TCDD limits in the Oregon Court of Appeals. On October 9, 1992 James River filed a similar petition and motion.


Even though these petitions for review and reconsideration have been filed, the mills moved forward to install the technology which they had selected to achieve the TCDD and AOX limitations of the permits. Both installed chlorine dioxide generators in order to substitute the use of chlorine dioxide for the elemental chlorine they had previously used in the pulp bleaching process. It was thought that dioxin was created primarily from the use of elemental chlorine. They were unsure as to what effect this substitution would have on the production of AOX compounds.

On March 5, 1993, a stipulation and agreement was finalized between the James River II, Inc., Boise Cascade Corporation, the City of St. Helens, and the Environmental Quality Commission. The purpose of this stipulation and agreement was to clarify the mutual understanding that the EQC's Reconsideration Order did not stay the effectiveness or enforceability of the TCDD limits or other permit limits unrelated to AOX and that such limits were, for all regulatory and enforcement purposes, effective in accordance with their terms.

On April 2, 1993, the Court of Appeals ruled that the Commission's April 16, 1992 Order was not yet final. The effect of this action was to defer any consideration of the mill's petition for judicial review of the TCDD limits until a final order was entered by the Commission at the conclusion of the pending reconsideration of AOX provisions of the order.

On July 1, 1993, James River and Boise Cascade submitted the status reports requested by the August 18, 1992 letter.

James River advised that equipment installation was completed in the summer of 1992, and testing demonstrated that the 1.5 kg/ton AOX limit could be met at chlorine dioxide substitution levels of 70% or greater. They proposed that the record of the contested case be reopened to include the reports submitted by the mills and that the facts in the record be relied upon relative to their opposition to the AOX provisions. They requested that the EQC modify their permit to delete the AOX limit, to specify a minimum chlorine dioxide substitution level of 70%, and to incorporate an AOX "goal" of 1.5 kg/ton.



Boise Cascade advised that chlorine dioxide substitution equipment was installed by mid April, 1993. Testing was in progress and indicated an AOX level in the St. Helens treatment system effluent of 2.0 at a 60% substitution level. Their testing schedule called for operating at 60% through July 9, 70% from July 9 through 17, and higher levels after that. They proposed that the scoping hearing be delayed until after they submitted a final report and proposal on October 1, 1993.

Following submittal of the reports, the Department met on several occasions with both mills to better understand their test results and seek to develop a common proposal for the reconsideration. During this process, the mills indicated that they would be willing to submit letters withdrawing their request for reconsideration of the AOX limits and withdraw their petitions for judicial review in the Court of Appeals if agreement could be reached on minor changes in the provisions of their permits. The Department has seriously pursued this potential to finally resolve the contested case and appeal issues.

### Alternatives and Evaluation

One of the reasons the permittees have contested the permits is the method the Department required the permittees to use to determine compliance with TCDD. The Department has required TCDD to be measured in the bleach plant sewers, with the final effluent concentration being calculated based upon how much TCDD is removed in the treatment system. With chlorine dioxide substitution levels above 70%, TCDD cannot be detected in the bleach plant sewers. Therefore, the Department concluded that it is appropriate to change the methodology specified in the permits for determining compliance with TCDD limits.

Based on evaluation of the data and information provided by the mills, the Department has concluded that the concentration of TCDD and AOX are highly dependent on the percentage of chlorine dioxide substitution in the bleaching process. The Department also concluded that if the mills were in compliance with the AOX limit, they would be in compliance with the TCDD limit. Therefore, the Department concluded that it would be appropriate to revise the permits to provide, among other things, that compliance with the AOX limit will be deemed to be compliance with the TCDD limit.

The Department has prepared proposed permits to replace the permits issued May 26, 1992. The attached Permit Evaluation Reports discuss the changes in the permit and the data the Department reviewed to arrive at the conclusions it did.

The permittees have indicated they are willing to accept the permits as rewritten. Upon reissuance, they will have a valid permit and their petition to the Commission for reconsideration of the AOX limits in the permits will become moot and will be withdrawn. They will also withdraw their petition for review of the TCDD limits filed with the Court of Appeals.

### **Authority of the Commission with Respect to the Issue**

The Commission may accept or reject this proposal to settle the outstanding issues of the contested case.

### **Summary of Public Input Opportunity**

Opportunity for public input will be provided through the normal public notice and comment process associated with permit issuance.

### **Conclusions**

- Both the City of St. Helens and James River have demonstrated to the Department's satisfaction that they are in compliance with permitted TCDD limits.
- James River is in compliance with their permitted AOX limits. St. Helens is close to compliance and will be in compliance in accordance with the compliance schedule in their permit.
- TCDD is non-detectable by EPA detection methods in any wastewater streams if at least 70% chlorine dioxide substitution is being used.
- AOX is an appropriate surrogate to be used to determine TCDD compliance.
- The Department proposed to reissue the permits and include a method of determining compliance with TCDD through compliance with AOX.
- St. Helens, Boise Cascade, and James River will accept the reissued permits and will withdraw their petition for reconsideration of AOX provisions and their petition to the Court of Appeals for review of TCDD limits once the permits have been reissued.

### **Intended Future Actions**

Through the standard permit issuance process, the Department proposes to make some minor changes in the permits, particularly with regards as to how compliance with TCDD is determined and where compliance will be measured. The proposed changes are detailed in the attached permit evaluation reports. The permits will then be reissued to replace the permits issued November 14, 1990 and revised May 26, 1992 to reflect provisions of the April 16, 1992 Order. The new permits will be 5 year permits.

### **Department Recommendation**

The Department recommends:

- 1) that the Commission concur in the proposed action to issue new permits.
- 2) that the Commission enter an order as presented in Attachment A to amend the August 10, 1992 Order Granting Petitions for Reconsideration to extend the November 30, 1993 deadline for scheduling a Commission Hearing "...for the purpose of further clarifying the scope of the issues to be reconsidered and determining whether to reopen the evidentiary record" to January 31, 1994.

If the Commission adopts this recommendation, upon reissuance of the proposed permits, the mills will provide written notice of withdrawal of their request for reconsideration and withdrawal of their petition for review to the Court of Appeals. Upon receipt of such notices, the Department will return to the Commission with a proposed order confirming termination the proceedings.

### **Attachments**

- Attachment A. Proposed Order Extending November 30, 1993 deadline to March 15, 1994.
- Attachment B. Draft Permit and Permit Evaluation Report for St. Helens
- Attachment C. Draft Permit and Permit Evaluation Report for James River

Memo To: Environmental Quality Commission  
Agenda Item J, October 29, 1993 Meeting  
Page 7

Approved:

Section: \_\_\_\_\_

Division: Michael Brown

Report Prepared By: Charles K. Ashbaker

Phone: 229-6385 Ex. 251

Date Prepared: October 12, 1993

cka  
10/12/93



Before the Environmental Quality Commission  
of the State of Oregon

In the Matter of National Pollutant )  
 Discharge Elimination System Waste )  
 Discharge Permit No. 100715 issued )  
 to the City of St. Helens on )  
 November 14, 1990, )  
 )  
 and )  
 )  
 In the Matter of National Pollutant )  
 Discharge Elimination System Waste )  
 Discharge Permit No. 100716, issued )  
 to James River II, Inc. on )  
 November 14, 1990. )  
 )  
 \_\_\_\_\_ )

ORDER EXTENDING DEADLINE  
FOR RECONSIDERATION  
SCOPING HEARING

On July 23, 1992, the Environmental Quality Commission considered petitions for reconsideration of the AOX provisions of the Commissions April 12, 1992 Order filed by Boise Cascade Corporation, James River II, Inc. (now James River Paper Company), and the City of St. Helens.

On August 10, 1992, an order was issued granting reconsideration of those portions of its Findings of Fact and Conclusions of Law and Final Order relating to the mills' NPDES permit conditions regulating the discharge of organochlorines other than dioxin (2,3,7,8 TCDD) including but not limited to the determination of the best available technology for controlling such discharges.

The August 10, 1992 Order further provided as follows:

A subsequent hearing will be held by the Commission for the purpose of further clarifying the scope of the issues to be reconsidered and determining whether to reopen the evidentiary record. This hearing shall be scheduled by the Department and shall be held on a date or dates approved by the Commission Chairperson during the period between July 1, 1993 and November 30, 1993, unless Boise Cascade, James River, NCAP/CRU and the Department agree to an earlier date.

The mills have submitted information and proposals to the Department for settlement of outstanding issues between the Department and Mills. The Department has reviewed information submitted, and prepared proposed permits, that if issued would moot the reconsideration and result in the mills withdrawal of their petition for reconsideration and their petition to the Court of Appeals for review of TCDD permit limits.

The Commission, after considering this matter at its meeting on October 29, 1993, concluded that it was appropriate for the Department to pursue this potential settlement by proceeding with the normal process to issue the proposed renewal permits to the Mills.

**The Commission hereby ORDERS:**

The November 30, 1993 deadline for scheduling of a subsequent hearing for the purpose of further clarifying the scope of the issues to be reconsidered and determining whether to reopen the evidentiary record be extended until January 31, 1994.

Dated this \_\_\_\_ day of \_\_\_\_\_, 1993.

On behalf of the Commission

---

Fred Hansen, Director  
Department of Environmental Quality

APPLICANT  
REVIEW

**FACT SHEET  
and  
NPDES PERMIT EVALUATION REPORT (Statement of Basis)**

**Department of Environmental Quality  
Northwest Region  
1500 S.W. First, Portland, OR 97201**

September 24, 1993

**PERMITTEE:**

City of St. Helens  
P.O. Box 278  
St. Helens, OR 97051

**FILE NUMBER:** 84069

**PERMIT NUMBER:** 100715

**EPA OR NUMBER:** OR-002083-4

**REVIEWER:** Charles K. Ashbaker

**PROPOSED ACTION:** Reissuance of NPDES Permit to City of St. Helens

**BACKGROUND:**

On November 14, 1990, DEQ issued National Pollutant Discharge Elimination System (NPDES) permits to the City of St. Helens. Boise Cascade Corporation operates a bleached kraft pulp and paper mill at St. Helens, which discharges process and other effluent into the City's sewage treatment plant. In addition to the normal parameters regulated, the permit also regulates the discharge of 2,3,7,8 TCDD (TCDD or dioxin) and organochlorines measured as AOX. The conditions of the City of St. Helens permit that limit discharges of TCDD and AOX are directed principally at discharges from the Boise Cascade mill. The limits for dioxin become effective November 15, 1993. The effective date for AOX is November 15, 1995.

At the time the permit was issued, the TCDD limitation was based upon a waste load allocation derived from a Total Maximum Daily Load (TMDL) study conducted by EPA on all of the dioxin discharges to the Columbia River system. The permit limit is 0.4 mg/day TCDD on an annual average. This corresponds to a concentration of 3.0 parts per quadrillion (ppq). Standard EPA analytical protocol measures TCDD only to 10 ppq. In order to determine compliance it was necessary to require the permittee to have Boise Cascade measure TCDD in the bleach plant effluent before it became diluted with other plant and city wastewater streams.

## **Establishing an AOX Limit**

The Department has been concerned about other chlorinated organics in bleached Kraft mill effluents in addition to dioxin. Because of this, the Department undertook an investigation of regulatory strategies which would better address Department concerns. This was done through a process authorized under the Clean Water Act (CWA §402(a)(1)) called Best Professional Judgement (BPJ). The Department released its BPJ in January 1990.

The measure of adsorbable organic halogens (AOX) has been used by other regulators in the international community for measuring regulated chlorinated organics, and the Department, in its BPJ determination, selected AOX as its control parameter or choice. The Department also determined that an annual average of 1.5 kg AOX per metric ton of air-dried pulp was achievable and, in its BPJ document, stated the following:

"...the Department believes that a combination of some of the following process changes need to be incorporated in upgrading of the existing pulp and paper mills to achieve the BPJ requirement of 1.5 kg of AOX/air-dried tonne of bleached pulp.

- a) oxygen delignification;
- b) high chlorine dioxide substitution in the first chlorination stage, preferably no less than 70% substitution;
- c) improve brown stock washing;
- d) elimination of hypochlorite in the bleaching stage;
- e) alkali/oxygen and/or alkali/peroxide extraction."

Boise Cascade chose to employ all of the above identified technologies with the exception of oxygen delignification in order to achieve the Department's stated objectives. The company contended, however, that it was uncertain as to whether the AOX limitations contained in its permit were achievable, or whether product quality would suffer as a result of the changes made in its bleaching sequence. Without oxygen delignification, the Department also was not confident that the permit limits could be achieved with the process changes implemented by the company, but had no compelling evidence sufficient to object to the direction Boise Cascade chose to pursue in order to achieve compliance.

## **Permit Contested by Permittee**

The renewal permit was issued on November 14, 1990. On December 3, 1990, both James River and the City of St. Helens requested a contested case review of the permit conditions pursuant to OAR 340-45-035(9). Boise Cascade requested party status in the contested case concerning the City's permit on

December 4, 1990. Other interested organizations also requested party status.

On December 21, 1990, the Environmental Quality Commission (EQC) granted the requests for contested case hearing and later consolidated the requests. The EQC also granted the requests for party status. In the contested case proceedings, the permittees contested the TCDD and AOX provisions of the permits.

On April 16, 1992, the EQC issued its Findings of Fact and Conclusions of Law and Final Order, which denied in substantial part the relief requested by the permittees. The order revised the NPDES permits issued to the James River and the City of St. Helens. The revised permits show an issuance date of May 26, 1992.

On June 12, 1992, the mills and the City filed petitions for reconsideration or rehearing with the EQC. These petitions were directed only at the AOX conditions of the permits. By order dated August 10, 1992, the EQC granted the petitions for reconsideration. The order stated in part:

"The Commission will reconsider those portions of its finding of Fact and Conclusions of Law and Final Order relating to the mills' NPDES permit conditions regulating the discharge of organochlorines other than dioxin (2,3,7,8, TCDD) including but not limited to the determination of the best available technology for controlling such discharges".

On October 8, 1992, Boise Cascade and the City filed petitions for judicial review and motions for a summary determination of reviewability of the TCDD limits in the Oregon Court of Appeals. On October 9, 1992, James River filed a similar petition and motion. By order of April 2, 1993, the Court of Appeals held that the Commission's April 16, 1992 order was not yet final. The Department now proposes to issue revised permits which will moot the contested case.

#### **Results of Process Changes Implemented by Boise Cascade**

Boise Cascade has shown that with process changes made, including chlorine dioxide substitution at a rate of 70% substitution, TCDD permit limits can be met. The AOX limits cannot be met at that level of substitution but may require 80 to 85% substitution. From the data they have submitted, it is obvious that compliance with TCDD limitations is assured if compliance with AOX is achieved. Although the original BPJ determination of the AOX limit was based upon oxygen delignification, it has been demonstrated by both Boise Cascade and James River that the AOX limit can also be achieved with a high percentage of chlorine dioxide substitution together with the other technologies implemented by both mills.

## **How to Determine Compliance With TCDD**

TCDD is not presently detectable in wastewater at any location at the mill site, using EPA method 1613. Therefore, it is necessary to determine compliance with TCDD limits by some method other than directly measuring TCDD.

Upon evaluating the data, it is apparent that the concentration of TCDD and AOX are both highly dependent upon the percentage of chlorine dioxide substitution in the bleaching process. It is also apparent that if the mills are in compliance with their AOX limits in the permit, they will be in compliance with the TCDD limits. Therefore, since TCDD is at levels which cannot be measured using standard methodology, the Department has determined to re-issue the permit and to use compliance with AOX as a determination of compliance with TCDD. If the permittee is in compliance with AOX, it will be considered in compliance with TCDD.

## **Innovative Monitoring of TCDD**

The research lab at Boise Cascade has developed a method of testing for TCDD which is much more sensitive than EPA method 1613. Since the method hasn't been approved, the Department could not use that method to determine permit compliance. However, Boise Cascade will continue to monitor TCDD using their analytical method and will share that data with us. They believe that the method they developed can estimate the concentration of TCDD down to about 1 ppq, whereas the recognized level of detection of EPA Method 1613 is 10ppq.

## **Contents of Permit To be Reissued**

The reissued permit will re-define how compliance with TCDD will be determined, the Department will include language tying the compliance with TCDD to compliance with AOX. That language has been added as note A5. of Schedule A of the attached draft permit. The City of St. Helens cannot yet achieve the 1.5 kg/ADMT limit in their permit. The compliance schedule for meeting the AOX is November 15, 1995. However, according to available data from Boise Cascade, at an AOX level of 2 kg/ADMT, TCDD limits are being achieved. The compliance date for TCDD is November 15, 1993. Therefore, in order to have a compliance parameter for TCDD, an interim limit for AOX of 2 kg/ADMT has been added to the permit.

A statement has been included in the permit that requires the Department to re-evaluate the use of AOX as an indication of compliance with TCDD if the pulp mill significantly changes their bleaching sequence, wood species used, or other process changes which could affect the relationship between TCDD and AOX.

In addition to the changes already noted, there have been several minor changes to the permit, as follows:

Face page - A note has been added above the signature line indicating that this permit is a "re-issuance" of the permit issued May 26, 1992.

- Other language has been changed at the bottom of the page to conform to the "permit as a shield" language.

- A new expiration date of September 30, 1998 was added.

Schedule A - Note A1 was revised to define all outfalls associated with the permit. The definition of outfall 004 at Boise Cascade was added.

- Note A3 was revised because the data collection has already been satisfied.

- Note A5 was modified to describe how compliance with TCDD would be determined.

- Notes A10 and A11 were combined and reworded.

Schedule B - The monitoring location for TCDD is now defined as Outfall 004 instead of 001.

- TCDF monitoring has been dropped since the levels are non-detectable and there is no TCDF limit.

- Condition 2. has been changed to reflect new monitoring frequencies after November 15, 1995.

- Note B1 has been changed to reflect the need for the monitoring of 004 and 001 to be staggered so that both samples are representative of the same batch of waste sampled.

- Note B2 indicates that the Department would entertain a request for modification of monitoring requirements after 9 months of non-detect samples.

- Note B3 has been modified to require the permittee in their pre-treatment agreement to Boise Cascade to require at least annual monitoring of the bleach plant sewer for TCDD. Other changes have been made to reflect the current method of determining compliance with TCDD.

- The definition of TCDF has been deleted as note B4. It is now included in B5.

- Note B8 has been deleted since outfall 003 is now defined in Note A1.

Schedule C - This schedule has been revised to eliminate those requirements that have already been satisfied by the permittee. Only those which are yet to be completed remain in the schedule.

Some additional compliance conditions have been added regarding the permittee's requirements for an industrial waste pre-treatment program.

### **Attachments**

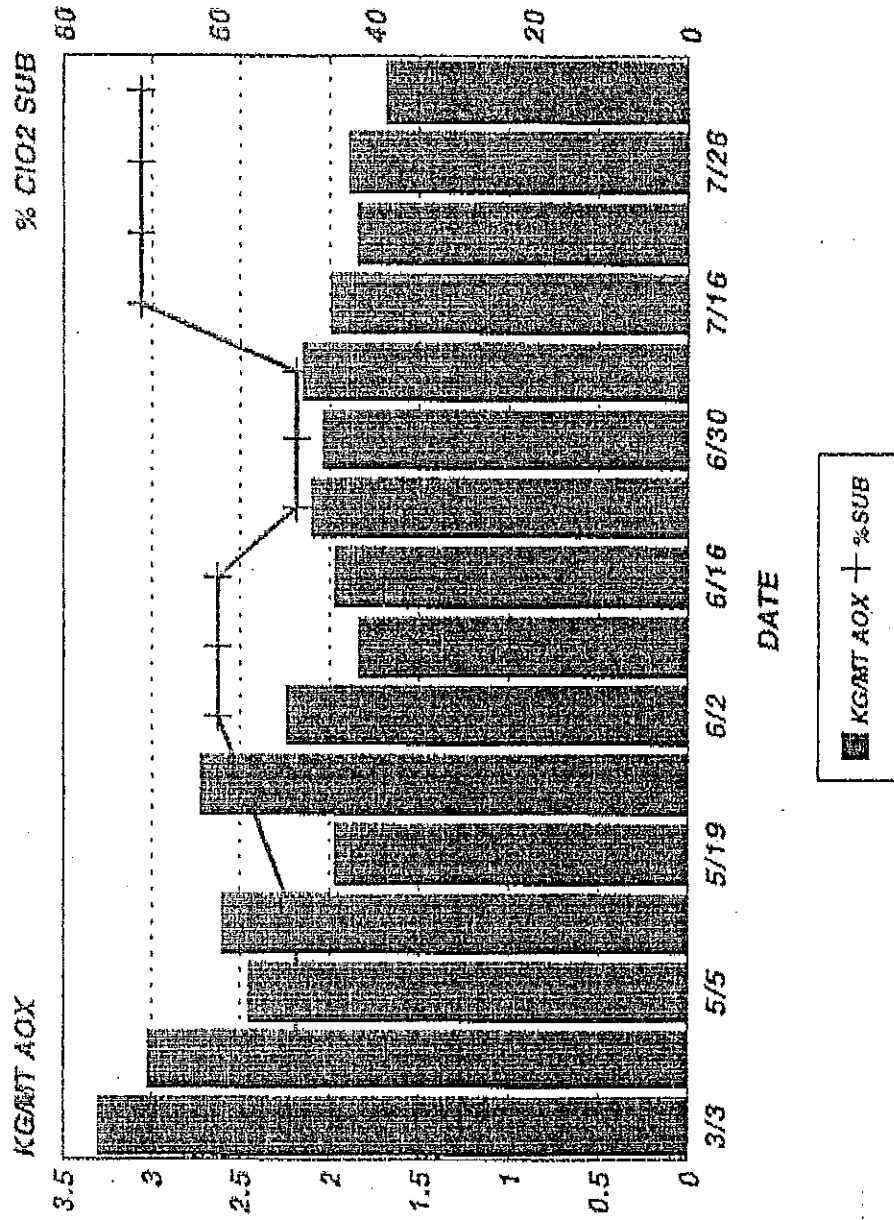
Exhibit 1 - Bar chart showing how AOX corresponds to the percent chlorine dioxide substitution between March 1993 and August 1993 during the startup of the chlorine dioxide generator.

Exhibit 2 - Data pairs showing the correlation between dioxin and AOX at AOX loadings of about 2 kg/BMT and 3 kg/BMT. This indicates that once the AOX gets below 2 kg/BMT, the dioxin is well with the permit limits of 0.4 mg/day.

Exhibit 3 - Dioxin estimates between April 1993 and August 1993 indicating the percent chlorine dioxide substitution and the dioxin measured at the bleach plant sewers, mill effluent, and the final outfall using Boise Cascade's research monitoring method of dioxin analysis.



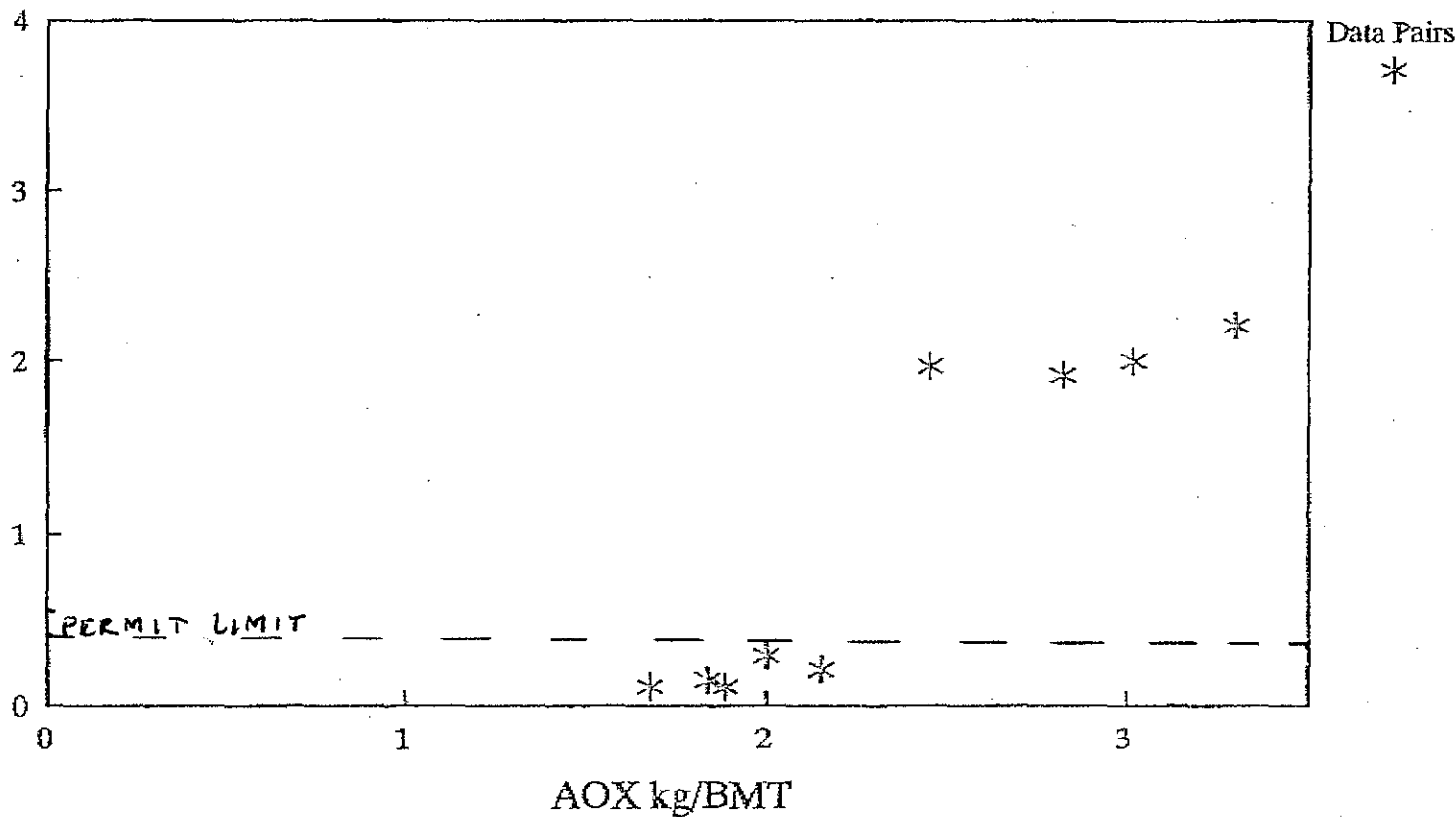
ST HELENS AOX DATA FOR 1993  
FINAL EFFLUENT



# Boise Cascade Dioxin Reduction Program

## St. Helens Mill

Dioxin mg/day



Dioxin Calculated as Mill Effluent mg/day  
AOX Calculated as Lagoon Effluent kg/bmt

# Boise Cascade St. Helens Dioxin Reduction Program

## Research and Development Study Results April - August 1993

BCC R&D Developmental Analytical Method Used For All Effluent Testing

(All values reported at levels less than 10 parts per quadrillion (ppq) are below the lower method calibration limit (LMCL) and Minimum Level of 10 ppq for 2378-TCDD, and are "estimated values" only.)

Date	Sub (%)	Flow (MGD)	Mill Effluent Dioxin		Pond Effluent Dioxin		Acid Sewer		Caustic Sewer	
			ppq	mg/day	ppq	mg/day	ppq	ppq		
4/30-02	50	32.6	16	1.97						
5/3-5	50	35.1			14	1.86				
5/13-14	50	37.2	18	2.53						
5/17-19	50	29.3			12	1.33				
5/28-30	50	35	13.5	1.79						
5/29	50						12.5		91.5	
6/17-18	60						(3.5) <10		28.5	
6/18-20	60	33.4	(4.3) <10	(0.54) <1.26						
7/1-2	50						(1.9) <10	(5.5) <10		
7/3-4	50	31.3	(1.8) <10	(0.21) <1.18						
7/5-7	50	33.1			(6.7) <10	(0.84) <1.25				
7/8-9	60						(2.2) <10		15	
7/9-11	60	32.9	(2.3) <10	(0.29) <1.24						
7/12-14	60	34.3			(6.5) <10	(0.84) <1.30				
7/15-16	70						(1.1) <10	(4.2) <10		
7/16-18	70	32.7	(1.2) <10	(0.15) <1.24						
7/19-21	70	31.6			10	1.19				
7/22-23	70									
7/23-25	70	30.1	(1.0) <10	(0.11) <1.14						
7/26-28	70	32.7			(4.6) <10	(0.57) <1.24				
7/29-30	70						(1.0) <10	(3.7) <10		
7/30-01	70	31.4	(0.9) <10	(0.11) <1.19						
8/2-4	70	34.1			(5.0) <10	(0.64) <1.29				
8/4-5	70	34.7								
8/6-8	70	34.9	(1.0) <10	(0.13) <1.32						
8/9-11	70	34.9								
8/12-13	70	28.2								
8/13-15	70	29.8								

Estimated Flows: Acid Sewer Flow = 7.5 mgd, Caustic Sewer Flow = 3.0 mgd

B11

EXHIBIT 3

# APPLICANT REVIEW

Expiration Date: 9-30-98  
Permit Number: 100715  
File Number: 84069  
Page 1 of 13 Pages

## NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM WASTE DISCHARGE PERMIT

Department of Environmental Quality  
811 S.W. Sixth Avenue, Portland, OR 97204  
Telephone: (503) 229-5696

Issued pursuant to ORS 468B.050 and the Federal Clean Water Act

### ISSUED TO:

City of St. Helens  
P.O. Box 278  
St. Helens, OR 97051

### SOURCES COVERED BY THIS PERMIT:

<u>Type of Waste</u>	<u>Outfall Number</u>	<u>Outfall Location</u>
Combined Municipal and Bleached Kraft Mill Secondary Effluent	001	R.M. 86

### PLANT TYPE AND LOCATION:

Primary Municipal Treatment Plant and Combined Secondary Aerated Lagoon  
St. Helens, OR  
Treatment System Class: IV  
Collection System Class: III

### RECEIVING STREAM INFORMATION:

Basin: Lower Columbia River  
Sub-Basin: Clatskanie  
Stream: Columbia  
Hydro Code: 10 = - COLU 86.0 D  
County: Columbia

EPA REFERENCE NO: OR-002083-4

Issued in response to Application No. 998811 received December 15, 1988.

This is a reissuance of the permit issued on May 26, 1992.

This permit is issued based on the land use findings in the permit record.

Charles K. Ashbaker, Manager  
Water Quality, Northwest Region

Date

### PERMITTED ACTIVITIES

Until this permit expires or is modified or revoked, the permittee is authorized to construct, install, modify or operate a waste water collection, treatment, control and disposal system and discharge to public waters adequately treated waste waters only from the authorized discharge point or points established in Schedule A and only in conformance with all the requirements, limitations, and conditions set forth in the attached schedules as follows:

	<u>Page</u>
Schedule A - Waste Discharge Limitations not to be Exceeded..	2-5
Schedule B - Minimum Monitoring and Reporting Requirements...	6-8
Schedule C - Compliance Conditions and Schedules.....	9-10
Schedule D - Special Conditions.....	11-13
General Conditions.....	Attached

Unless authorized by another NPDES permit, each other direct and indirect waste discharge to public waters is prohibited.

SCHEDULE A

Waste Discharge Limitations

1. Effective After Permit Issuance:

<u>Parameter</u>	<u>Location</u>	<u>Loadings</u>	
		<u>Monthly Avg.</u> <u>lb/day</u>	<u>Daily Max.</u> <u>lb/day</u>
BOD <sub>5</sub>	001	12,800	19,600
TSS	001	26,862	50,057

	<u>Location</u>	<u>Limitations</u>
pH	001	Shall not be outside the range 5.0-9.0
Fecal Coliform	002	Shall not exceed 400 per 100 mL (daily max.) Shall not exceed 200 per 100 mL (monthly avg.)

(See Note A1)

2. Effective November 15, 1993:

<u>Parameter</u>	<u>Location</u>	<u>Loadings</u>	
		<u>Annual Avg.</u> <u>lb/day</u>	<u>Qtrly Max.</u> <u>lb/day</u>
TCDD	001	8.8 x 10 <sup>-7</sup> (0.40 mg/day)	1.3 x 10 <sup>-6</sup> (0.57 mg/day)

(See Notes A2-A5)

3. Effective November 15, 1993:

<u>Parameter</u>	<u>Location</u>	<u>Loadings</u>	
		<u>Annual Avg.</u> <u>lb/ADT</u>	<u>Monthly Avg.</u> <u>lb/ADT</u>
AOX	001	4.0 (2.0 kg/ADMT)	7.0 (3.5 kg/ADMT)

4. Effective November 15, 1995:

<u>Parameter</u>	<u>Location</u>	<u>Loadings</u>	
		<u>Annual Avg.</u> <u>lb/ADT</u>	<u>Monthly Avg.</u> <u>lb/ADT</u>
AOX	001	3.0 (1.5 kg/ADMT)	5.2 (2.6 kg/ADMT)

(See Notes A6-A11)

Schedule A continued:

5. Notwithstanding the effluent limitations established by this permit, no wastes shall be discharged and no activities shall be conducted which will violate Water Quality Standards as adopted in OAR 340-41-205 except in the following defined mixing zone:

The allowable mixing zone shall extend 100 feet from each end of the diffuser, 400 feet downstream of the diffuser, and 100 feet upstream of the diffuser.

The discharge of TCDD is not regulated according to the mixing zone approach stated above. It is regulated according to the requirements of EPA's total maximum daily load and waste load allocation study of TCDD in the Columbia River Basin.

6. Notes for Schedule A:

- A1. Outfall 001 is the discharge line from the combined secondary treatment facilities into the Columbia River. Outfall 002 is the discharge line from the municipal primary treatment facilities into the secondary treatment facilities. Outfall 003 is the discharge line from the influent channel into the primary treatment facilities. All domestic and industrial wastewater enters the treatment facilities at this location except for the wastewater contributed by the Boise Cascade mill. Outfall 004 is the discharge line from Boise Cascade Corporation's primary treatment system into the combined secondary treatment facilities. The combined kraft mill effluent discharged from Boise Cascade at this outfall includes effluent from the bleach kraft mill, integrated processes at the mill, and storm water discharges. Outfall 004 is owned and maintained by Boise Cascade Corporation.
- A2. TCDD is defined as 2,3,7,8-tetrachlorodibenzo-p-dioxin. EPA method 1613 or an equivalent method acceptable to the Department and EPA shall be used to analyze for TCDD. Both the suspended and dissolved fractions of the wastewater shall be included in the analysis.
- A3. The TCDD discharge limitations are based on EPA's proposed total maximum daily load for controlling the discharge of TCDD into the Columbia River Basin (June 14, 1990). The waste load allocation for the Boise Cascade bleach kraft mill presented in Table 5-7 of that document (0.27 mg/day) is the long-term average discharge limitation that must be met by the permittee. This long-term average reflects the long-term exposure basis (70 years) used to develop the water quality standard for TCDD.

Schedule A continued:

- A4. The annual average and quarterly maximum TCDD limitations have been derived statistically. They are based on the premise that effluent variability can be described by a lognormal distribution with a coefficient of variation equal to 0.6 as recommended in the EPA technical support document.

The quarterly maximum limit shall be calculated as the average of the results from the three monthly samples taken during the quarter.

- A5. Until the specified TCDD discharge limitations can be measured directly at Outfall 001, the permittee will be considered to be in compliance with the discharge limitation, if the permittee maintains compliance with the AOX limits found in Conditions 3. and 4. of this SCHEDULE. If the permittee is not in compliance with the AOX limits of the permit, it will also be considered to be in non-compliance with the TCDD limits of the permit, unless it can demonstrate through an acceptable method that it is in compliance with the TCDD limitations.

This method of determining compliance with TCDD is acceptable as long as the method of achieving compliance is through the implementation of chlorine dioxide substitution. If Boise Cascade Corporation proposes to significantly change the bleaching sequence, wood species used, or other process changes which could affect the relationship between TCDD and AOX, the permittee will request the Department to evaluate the changes to see if the method of determining compliance must be changed in the permit. If the Department determines that, with the changes proposed, TCDD compliance may not be demonstrated by achieving compliance with AOX, the permit will be reopened and a new methodology of determining TCDD compliance will be added prior to the changes being made.

In addition, in order to demonstrate compliance with the TCDD waste load allocation as specified in Condition 2. of this SCHEDULE, the TCDD concentration at Outfall 004 shall not be detectable using EPA method 1613. The recognized detection level using method 1613 for aqueous samples is 10 ppq (parts per quadrillion).

Schedule A continued:

- A6. AOX is defined as Adsorbable Organic Halogens. The analytical method to be used is the SCAN-W 9:89 protocol described by the Scandinavian Pulp, Paper, and Board Testing Committee, draft EPA Method 1650A, or an equivalent method acceptable to the Department. Both the suspended and dissolved fractions of the wastewater shall be included in the analysis.
- A7. The average annual limitation for AOX has been established by using best professional judgement (BPJ).
- A8. The monthly AOX loading limitation has been derived statistically from the annual average limitation and the number of samples to be analyzed per averaging period. Four samples will be analyzed per month.
- A9. The AOX limitations are based on the quantity of chlorine bleached pulp produced, expressed in air dried tons (ADT) per averaging period. These limitations are also listed in units of air dried metric tons (ADMT) for comparison.
- A10. The annual average discharge of TCDD and AOX shall be reported once per year based on the results of monthly and weekly sampling at Outfalls 004 and 001, respectively, conducted from November 1 through October 31, of each year.



SCHEDULE B

Minimum Monitoring and Reporting Requirements  
(unless otherwise approved in writing by the Department)

1. Effective After Permit Issuance:

<u>Parameter</u>	<u>Location</u>	<u>Minimum Frequency</u>	<u>Type of Sample</u>
Flow	001,003	Daily	Measurement
BOD <sub>5</sub>	001,003	Daily	24-hr composite
CBOD <sub>5</sub>	001,003	Monthly	24-hr composite
NH <sub>3</sub> -N	001,003	Monthly	24-hr composite
TSS	001,003	Daily	24-hr composite
Temperature	001,003	Daily	Grab
pH	001,003	Daily	Grab
Color	001	Weekly	Grab
Fecal Coliform	002	Weekly	Grab
Bioassay	001	Quarterly	24-hr composite
AOX	001	Weekly	3-day composite
TCDD	004	Monthly	3-day composite
Chloroform	001	Quarterly	Grab
Copper	001,003	Quarterly	24-hr composite
Cadmium	001,003	Quarterly	24-hr composite
Nickel	001,003	Quarterly	24-hr composite
Lead	001,003	Quarterly	24-hr composite
Zinc	001,003	Quarterly	24-hr composite
Silver	001,003	Quarterly	24-hr composite
Arsenic	001,003	Quarterly	24-hr composite
Chromium	001,003	Quarterly	24-hr composite
Mercury	001,003	Quarterly	24-hr composite
Cyanide	001,003	Quarterly	24-hr composite
TTO	001,003	Quarterly	24-hr composite
Outfall	001	Annually	Inspection

(See Notes B1-B8)

2. After November 15, 1995, the monitoring frequencies are changed for the following parameters:

<u>Parameter</u>	<u>Location</u>	<u>Minimum Frequency</u>	<u>Type of Sample</u>
AOX	001	Monthly	3-day composite
TCDD	004	Quarterly	3-day composite

3. Reporting Procedures:

Monitoring results shall be reported on approved forms. The reporting period is the calendar month. Reports must be submitted to the Department by the 15th day of the following month. For

Schedule B continued:

TCDD analysis, reports must be submitted within 105 days of the end of the reporting period. Schedule B continued:

State monitoring reports shall identify the name, certificate classification and grade level of each principal operator designated by the permittee as responsible for supervising the municipal wastewater collection and treatment systems (including combined municipal/industrial secondary treatment), during the reporting period. Monitoring reports shall also identify each system classification as found on page one (face page) of the permit.

4. Notes for Schedule B:

- B1. The AOX samples collected at Outfall 001 shall be staggered to correspond as much as practicable with the TCDD samples collected at Outfall 004.
- B2. After nine (9) months of monitoring the TCDD with measurements of non-detectable obtained, the permittee may request a modification to lower the frequency of TCDD monitoring.
- B3. The pretreatment permit, order, agreement, or similar means that the city issues to Boise Cascade shall include at least annual monitoring of the bleach plant sewer and the landfill leachate for TCDD.
- B4. TTO is defined as total toxic organics which is the summation of all quantifiable values greater than 0.01 milligrams per liter for the toxic organics listed in 40 CFR Part 433.
- B5. Waste sludge removed from the primary and secondary lagoons shall be analyzed for AOX, TCDD, TCDF, chloroform, cyanide, and the metals listed under Item 1 of Schedule B prior to disposal. Composite samples of the waste sludge shall be thoroughly mixed prior to testing. The primary sludge and the secondary sludge shall be analyzed separately. TCDF is defined as 2,3,7,8 - tetrachlorodibenzofuran.
- B6. Bypassing is known to occur at Manholes IA-25, M-1, I-12, and IF-23 as identified in the 1989 facilities plan. When bypassing occurs, the location and quantity of the bypass shall be reported on the monthly discharge monitoring report. All bypassing will be eliminated according to the time-frame established in Schedule C of this permit.

Schedule B continued:

- B7. All sampling shall be conducted Monday through Friday except where sampling frequency is specified as daily. Daily sampling shall be conducted each day of the week including Saturday and Sunday.
- B8. An annual inspection is required for the City's outfall pipe and diffuser system located at Outfall 001, and a written report shall be submitted as a result of the inspection. At a minimum, the report will include information as to the condition of the outfall and the diffusers and any maintenance required for proper operation of the outfall.

**SCHEDULE C**

Compliance Conditions and Schedules

1. The permittee shall evaluate the occurrence of TCDD and AOX at the wastewater treatment plant and comply with the following:

By November 15, 1993, the permittee shall be in compliance with the TCDD limits established in Schedule A, Condition 2, and the AOX limits established in Schedule A, Condition 3.

By November 15, 1995, the permittee shall be in compliance with the AOX limits established in Schedule A, Part 4.

2. The permittee shall complete the facilities improvements included in the March 1990 pre-design report according to the following schedule:

By November 1, 2000, storm drainage improvements shall be completed and made operational unless new information makes other improvements more appropriate and they are approved by the Department.

3. The permittee shall address sludge management needs according to the following schedule:

By April 1, 1994, the permittee shall submit a sludge management plan for Departmental review that contains the information listed in the Department's Sludge Management Plan Checklist. In addition, the plan shall include chemical characterization of the primary, secondary, and existing stockpiled sludge for TCDD, TCDF, chloroform, cyanide, and the metals listed in Schedule B.

By July 1, 1994, the approved plan shall be implemented by the permittee.

4. The permittee shall develop and implement a formal pretreatment program that meets the requirements of 40 CFR Part 403 according to the following schedule:

Within sixty (60) days of receipt of the Department's comments on the City's Sewer Use Ordinance, the permittee shall revise the Ordinance accordingly and adopt the Ordinance. The Ordinance shall address the discharge of TCDD and AOX into the permittee's treatment facilities.

Within ninety (90) days of receipt of the Department's comments on the City's Sewer Use Ordinance, the permittee shall submit the industrial user permit application format for review. Within thirty (30) days of receipt of the Department's approval of the industrial user permit application format, the permittee shall obtain completed industrial user permit applications from all significant industrial users.

Schedule C continued:

Within one hundred twenty (120) days of receipt of the Department's comments on the City's Sewer Use Ordinance, the permittee shall submit the technically-based local limits for review. Within thirty (30) days of receipt of the Department's comments on the local limits, the permittee shall revise and adopt the local limits. Development of limits for TCDD, AOX, heavy metals, and cyanide shall be a key component of the pretreatment program to ensure protection of water quality and sludge quality, and to prevent interference with the treatment system.

Within thirty (30) days of receipt of the Department's approval of the City's local limits, the permittee shall submit for Departmental approval the proposed, City-issued, industrial wastewater discharge permit, order, agreement, or similar means of regulating the discharge from Boise Cascade's bleach kraft mill effluent and landfill leachate waste streams. The permittee shall issue the permits to Boise Cascade within 30 days of approval by the Department.

Within sixty (60) days of receipt of industrial user permit applications for the remaining industries requiring permits, the permittee shall draft and issue industrial user permits. If the permittee has not received the Department's approval of local limits prior to the permit issuance deadline, all permits shall be required to contain all applicable state and Federal pretreatment standards and requirements, and shall contain a specific reopener condition. This condition shall allow permits to be reopened and modified to incorporate all applicable local limits once DEQ approval of local limits has been received.

Within sixty (60) days of issuance of all of the industrial user permits, the permittee shall submit for Departmental approval all final program documents. The final Pretreatment Program shall include, but not be limited to:

- (1) Completed versions of the City's legal authority to implement the Program;
- (2) An Implementation Manual which describes the procedures to carry out specific Program responsibilities; and,
- (3) Local Limits development documentation.

**SCHEDULE D**

Special Conditions

1. An adequate contingency plan for prevention and handling of spills and unplanned discharges shall be in force at all times. A continuing program of employee orientation and education shall be maintained to ensure awareness of the necessity of good inplant control and quick and proper action in the event of a spill or accident.
2. Wastewaters discharging to biological secondary treatment facilities shall contain adequate nutrients for optimum biological activity at all times. An automatic flow-regulated mechanical nutrient feeding facility is recommended.
3. The permittee shall comply with Oregon Administrative Rules (OAR), Chapter 340, Division 49, "Regulations Pertaining to Certification of Wastewater System Operator Personnel" and accordingly:
  - a. The permittee shall have its wastewater collection and treatment systems supervised by one or more operators who are certified in the class (collection or treatment) and grade level (equal to or greater) that corresponds with the class of the system to be supervised as shown on page one of the permit.

**Note:** A "supervisor" is defined as the person exercising authority for establishing and executing the specific practice and procedures of operating the system in accordance with the policies of the permittee and requirements of the waste discharge permit. "Supervise" means responsible for the technical operation of a system, which may affect its performance or the quality of the effluent produced. Supervisors are not required to be on-site at all times.

- b. No system shall be without supervision (as required by Special Condition 3a above) for more than thirty (30) days. During periods when the supervisor is absent (off-site and physically not available), the permittee shall provide an alternate, or in the case of shift operation, designate a shift supervisor. The alternate or shift supervisor shall be certified in the proper class and at no less than one grade level lower than the class of the system to be supervised.
- c. The permittee is responsible for ensuring its system has a properly certified operator available at all times (to respond on-site at the request of the permittee and to any other system operator).
- d. The permittee shall notify the Department of Environmental Quality in writing within thirty (30) days of replacement or redesignation of certified operators responsible for supervising system operation (including shifts). The notice shall be filed with the Water Quality Division, Operator Certification Program (see address on page one of the permit). This requirement is in addition to the reporting requirements contained under Schedule B of this permit as modified above.

Schedule D continued:

4. When applicable federal BAT effluent guidelines are adopted, this permit may be re-opened to include all applicable effluent limits not already in the permit or more stringent than those presently in the permit. A schedule for achieving those limits, within the time frames established by the Clean Water Act, will also be added to the permit.
5.
  - a. The permittee shall conduct chronic whole effluent toxicity bioassay tests of Outfall 001 in accordance with the frequency specified in Schedule B with Pimephales promelas (fathead minnow) and Ceriodaphnia dubia (water flea).
  - b. The bioassay test shall be dual end-point tests in which both acute and chronic end-points are determined from the results of a single chronic test. The acute end-point shall be based upon a 48-hour time period.
  - c. Bioassays shall be conducted in accordance with Short-term Methods for Estimating the Chronic Toxicity of Effluent and Receiving Waters to Freshwater Organisms, EPA/600/4-89/001 and Methods for Measuring the Acute Toxicity of Effluents to Aquatic Organisms, EPA/600/4-90/027. Quality assurance criteria, statistical analyses and data reporting shall be in accordance with the EPA documents and Departmental requirements for chronic testing referenced above.
  - d. The permittee shall make available to the Department, upon request, the written standard operating procedures that it or the laboratory performing the bioassays is using for all of the toxicity tests required by the Department.
  - e. An acute bioassay test shall be considered to show toxicity if there is significant difference in survival between the control and 100 percent effluent, unless the permit specifically provides for a Zone of Immediate Dilution (ZID) for biotoxicity. If the permit specifies such a ZID, acute toxicity shall be indicated when a significant difference in survival occurs at dilutions greater than that which is found to occur at the edge of the ZID.
  - f. A chronic toxicity test shall be considered to show toxicity if a significant difference in survival occurs at dilutions greater than that which is known to occur at the edge of the mixing zone.
  - g. If toxicity is shown under either acute or chronic at the established criteria, another toxicity test using the same species and Department approved methodology shall be conducted within two weeks, unless otherwise approved by the Department. If the second test also indicates toxicity, then the permittee shall follow the procedures described in Section h.
  - h. If, after following the procedure as described in sections (e) or (f) of this permit condition, two consecutive bioassay test results indicate acute and/or chronic toxicity, the permittee shall evaluate the source of the toxicity and submit a plan and time schedule for demonstrating compliance with water quality

Schedule D continued:

standards. Upon approval by the Department, the permittee shall implement the plan until compliance has been achieved. Evaluations shall be completed and plans submitted to the Department within 6 months unless otherwise approved in writing by the Department.

- i. If bioassay testing indicates acute and/or chronic toxicity, the Department may reopen and modify this permit to include new limitations and/or conditions as determined by the Department to be appropriate.
6. The permit limitations for TCDD placed in Schedule A will be changed, if necessary, to be consistent with refinements or revisions of the total maximum daily load (TMDL) and Waste Load Allocations (WLAs) established for TCDD in the Columbia River Basin.
7. The permit limits for AOX will be re-examined if the Department determines that the specified limits are not achievable using the best available technology based on BPJ.
8. Based on information available to the Department, it may at any time during the life of this permit initiate a modification in accordance with procedures outlined in Oregon Administrative Rule (OAR) 340-45-055.

P84069W.5R (5-14-92)



**APPLICANT  
REVIEW**

**FACT SHEET  
and  
NPDES PERMIT EVALUATION REPORT (Statement of Basis)**

**Department of Environmental Quality  
Northwest Region  
1500 S.W. First, Portland, OR 97201**

September 24, 1993

**PERMITTEE:**

James River Paper Company, Inc.  
Wauna Mill  
Rt. 2, Box 2185  
Clatskanie, OR 97016

**FILE NUMBER:** 21328

**PERMIT NUMBER:** 100716

**EPA OR NUMBER:** OR-000079-3

**REVIEWER:** Charles K. Ashbaker

**PROPOSED ACTION:** Reissuance of NPDES Permit to James River Paper Company, Inc.

**BACKGROUND:**

On November 14, 1990, DEQ issued National Pollutant Discharge Elimination System (NPDES) permit to James River Paper Company, Inc. which operates a bleached kraft pulp and paper mill at Wauna. The permittee discharges process and other effluent to the Columbia River at river mile 42. In addition to the normal parameters regulated, the permit also regulates the discharge of 2,3,7,8 TCDD (TCDD or dioxin) and organochlorines measured as AOX. The limits for dioxin become effective November 15, 1993. The effective date for AOX is November 15, 1995.

At the time the permit was issued, the TCDD limitation was based upon a waste load allocation derived from a Total Maximum Daily Load (TMDL) study conducted by EPA on all of the dioxin discharges to the Columbia River system. The permit limit is 0.31 mg/day TCDD on an annual average. This corresponds to a concentration of about 3 parts per quadrillion (ppq). Standard EPA analytical protocol measures TCDD only to 10 ppq. In order to determine compliance it was necessary to require the permittee to measure TCDD in the bleach plant effluent before it became diluted with other plant wastewater streams.

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## **Establishing an AOX Limit**

The Department has been concerned about other chlorinated organics in bleached Kraft mill effluents in addition to dioxin. Because of this, the Department undertook an investigation of regulatory strategies which would better address Department concerns. This was done through a process authorized under the Clean Water Act (CWA §402(a)(1)) called Best Professional Judgement (BPJ). The Department released its BPJ in January 1990.

The measure of adsorbable organic halogens (AOX) has been used by other regulators in the international community for measuring regulated chlorinated organics, and the Department, in its BPJ determination, selected AOX as its control parameter or choice. The Department also determined that an annual average of 1.5 kg AOX per metric ton of air-dried pulp was achievable and, in its BPJ document, stated the following:

"...the Department believes that a combination of some of the following process changes need to be incorporated in upgrading of the existing pulp and paper mills to achieve the BPJ requirement of 1.5 kg of AOX/air-dried tonne of bleached pulp.

- a) oxygen delignification;
- b) high chlorine dioxide substitution in the first chlorination stage, preferably no less than 70% substitution;
- c) improve brown stock washing;
- d) elimination of hypochlorite in the bleaching stage;
- e) alkali/oxygen and/or alkali/peroxide extraction."

James River chose to employ all of the above identified technologies with the exception of oxygen delignification in order to achieve the Department's stated objectives. The company contended, however, that it was uncertain as to whether the AOX limitations contained in its permit were achievable, or whether product quality would suffer as a result of the changes made in its bleaching sequence. Without oxygen delignification, the Department also was not confident that the permit limits could be achieved with the process changes implemented by the company, but had no compelling evidence sufficient to object to the direction James River chose to pursue in order to achieve compliance.

## **Permit Contested by Permittee**

The renewal permit was issued on November 14, 1990. On December 3, 1990, both James River and the City of St. Helens requested a contested case review of the permit conditions pursuant to OAR 340-45-035(9). Boise Cascade requested party status in the contested case concerning the City's permit on

December 4, 1990. Other interested organizations also requested party status.

On December 21, 1990, the Environmental Quality Commission (EQC) granted the requests for contested case hearing and later consolidated the requests. The EQC also granted the requests for party status. In the contested case proceedings, the permittees contested the TCDD and AOX provisions of the permits.

On April 16, 1992, the EQC issued its Findings of Fact and Conclusions of Law and Final Order, which denied in substantial part the relief requested by the permittees. The order revised the NPDES permits issued to the James River and the City of St. Helens. The revised permits show an issuance date of May 26, 1992.

On June 12, 1992, the mills and the City filed petitions for reconsideration or rehearing with the EQC. These petitions were directed only at the AOX conditions of the permits. By order dated August 10, 1992, the EQC granted the petitions for reconsideration. The order stated in part:

"The Commission will reconsider those portions of its finding of Fact and Conclusions of Law and Final Order relating to the mills' NPDES permit conditions regulating the discharge of organochlorines other than dioxin (2,3,7,8, TCDD) including but not limited to the determination of the best available technology for controlling such discharges".

On October 8, 1992, Boise Cascade and the City filed petitions for judicial review and motions for a summary determination of reviewability of the TCDD limits in the Oregon Court of Appeals. On October 9, 1992, James River filed a similar petition and motion. By order of April 2, 1993, the Court of Appeals held that the Commission's April 16, 1992 order was not yet final. The Department now proposes to issue revised permits which will moot the contested case.

### **Results of Process Changes Implemented by James River**

James River has shown that with the process changes it has implemented, including chlorine dioxide substitution, its TCDD permit limits can be met. The AOX limits are met once the chlorine dioxide substitution reaches about 85%. From the data the company has submitted, it is obvious that compliance with TCDD limitations is assured if compliance with AOX is achieved. Although the original BPJ determination of the AOX limit included oxygen delignification, it has been demonstrated by both Boise Cascade and James River that the AOX limit can be achieved with a high percentage of chlorine dioxide substitution, together with the other technologies implemented by both mills. At the present time, James River is operating at 100% substitution. The TCDD is not detectable

in bleach plant or final effluent. The AOX is presently one third to one half of the annual average permit limit. The Department is satisfied that the technology combination selected by both Boise Cascade and James River is consistent with its BPJ determination.

#### **How to Determine Compliance With TCDD**

TCDD is not presently detectable in final effluent. Therefore, it is necessary to determine compliance with TCDD limits by some method other than directly measuring TCDD.

Upon evaluating the data, it is apparent that the concentration of TCDD and AOX are both highly dependent upon the percentage of chlorine dioxide substitution in the bleaching process. It is also apparent that if the mills are in compliance with their AOX limits in the permit, they will be in compliance with the TCDD limits. Therefore, since TCDD is at levels which cannot be measured using standard methodology, the Department has determined to re-issue the permit and to use compliance with AOX as a determination of compliance with TCDD. If the permittee is in compliance with AOX, it will be considered in compliance with TCDD.

#### **Contents of Permit to be Reissued**

The reissued permit will re-define how compliance with TCDD will be determined. The permit will include language tying the compliance with TCDD to compliance with AOX. That language has been added as note A5. of Schedule A of the attached draft permit. The permittee is currently in compliance with both TCDD and AOX. The compliance schedule for meeting the AOX is November 15, 1995. Since compliance is already achieved, the compliance schedule for AOX will be removed from the permit.

A statement has been included in the permit that requires the Department to re-evaluate the use of AOX as an indication of compliance with TCDD if the pulp mill significantly changes their bleaching sequence, wood species used, or other process changes which could affect the relationship between TCDD and AOX.

In addition to the changes already noted, there have been several minor changes to the permit, as follows:

Face page - A note has been added above the signature line indicating that this permit is a "re-issuance" of the permit issued May 26, 1992.

- Other language has been changed at the bottom of the page to conform to the "permit as a shield" language.

- A new expiration date of September 30, 1998 was added.

Schedule A - The effective date for compliance with AOX has been changed from November 15, 1995 to November 15, 1993. James River is currently in compliance with AOX

- A statement concerning reexamination of statistical assumptions after 24 months has been removed from Note A4. It is no longer applicable.

- Note A5 was modified to describe how compliance with TCDD would be determined.

- Some of the unnecessary wording concerning the development of AOX by BPJ has been removed from Note A8.

- The wording of Note A9 has been changed to be consistent with the St. Helens permit.

Schedule B - The minimum frequency for monitoring the flow from the bleach plant sewer has been changed from quarterly to daily to reflect current practice. Since this is a calculated flow rather than measured, the wording was changed to reflect that.

- The terms "acute toxicity" and "chronic toxicity" were combined into just one term "toxicity".

- TCDF monitoring has been dropped since the levels are non-detectable and there is no TCDF limit.

- Condition 2. has been changed to reflect new monitoring frequencies after November 15, 1993.

- The original Note B1 regarding the bioassay requirements has been expanded and moved to Schedule D. Notes B2 and B3 have been renumbered.

- Note B3 has been changed to correspond with sludge sampling procedures at the facility.

- Note B5, the definition for TCDF has been removed. Note B6 has been renumbered as Note B4.

Schedule C - This schedule has been revised to eliminate those requirements that have already been satisfied by the permittee. Only the date of achieving compliance by November 15, 1993, remains in Schedule C.

#### **Attachments**

Exhibit 1 - Bar chart showing how AOX and phenolics relate to percent chlorine dioxide substitution.

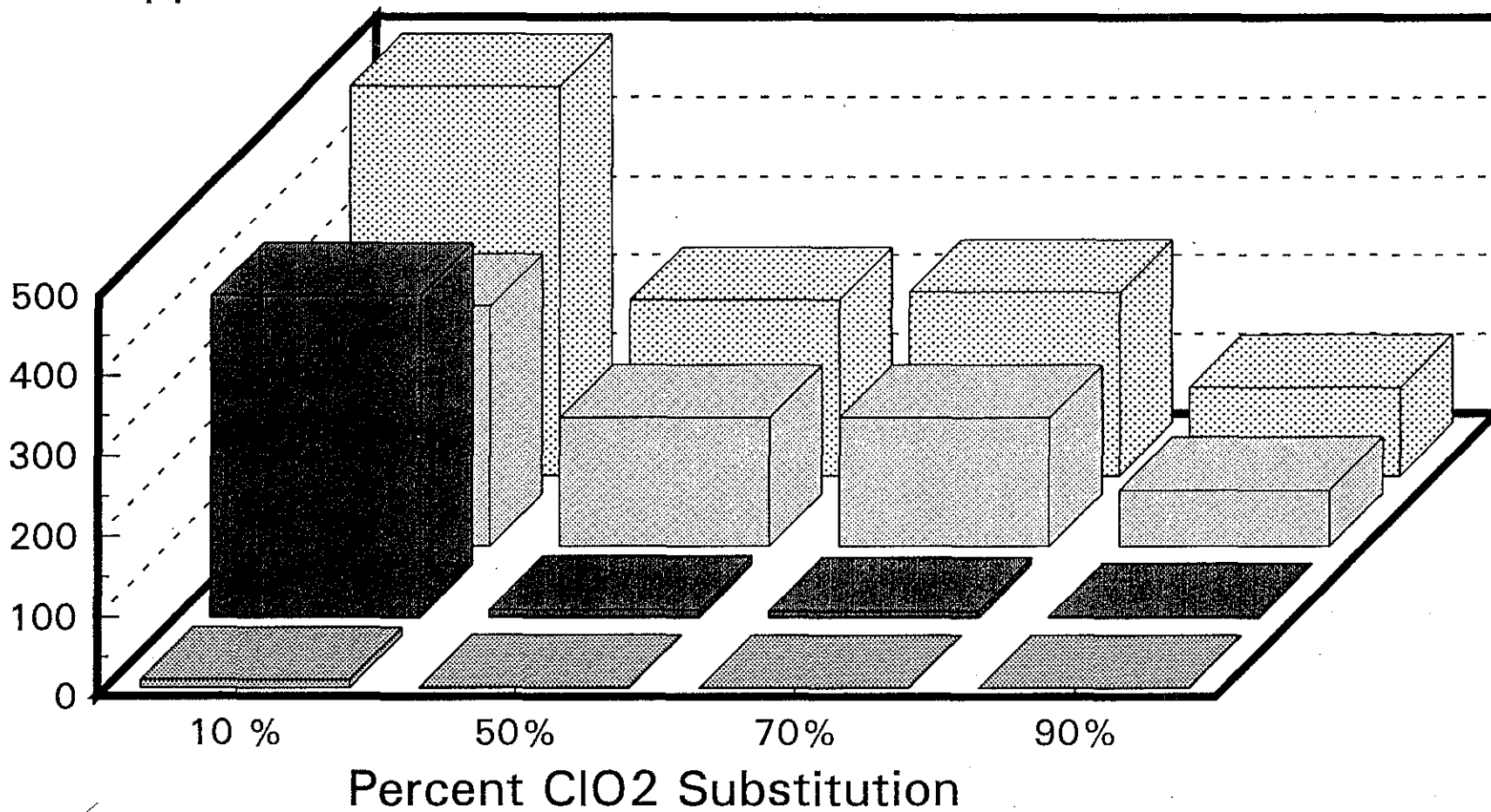
Exhibit 2 - Line graph indicating discharge of AOX between May 1990 and August 1993. Some notes have been added which indicate when chlorine dioxide substitution started.

Exhibit 3 - Three line graphs showing AOX in final mill effluent in relation to 70%, 90%, and 100% chlorine dioxide substitution. The straight line across the graph indicates the AOX effluent limit of 1.5 kg/ADMT.

Exhibit 4 - Dioxin in bleach plant sewer and final effluent in relation to percent chlorine dioxide substitution. Although not indicated on the chart, since James River started 100% substitution, all analysis for dioxin in the bleach plant sewer and final effluent have been non-detect. [Note: The mill used NCASI Method 551 for most of those analyses.]

# Wauna Chlorophenolics and AOX Data

TEQ (ppb)



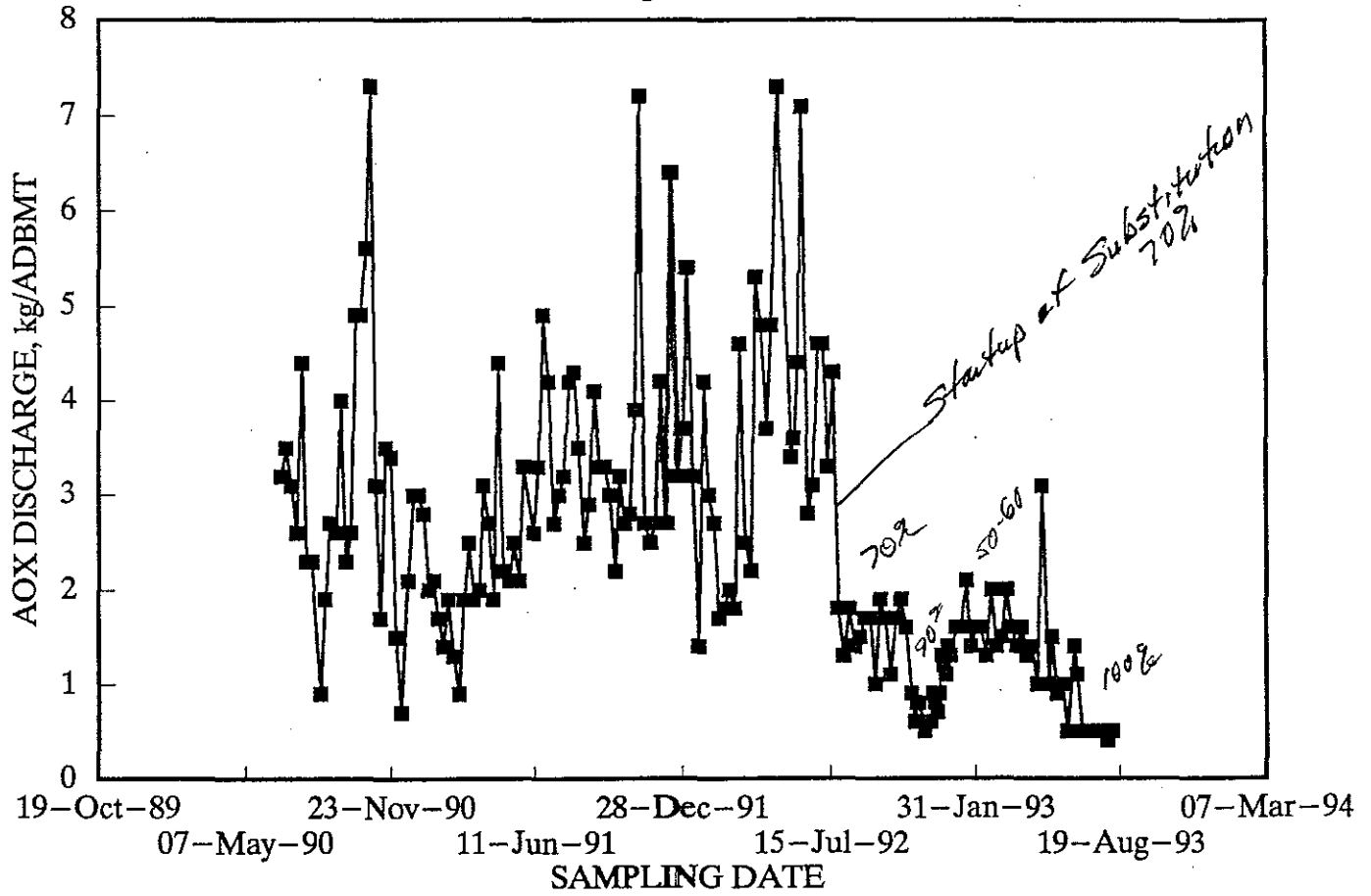
- Effluent Phenolics
- Influent Phenolics
- Eff AOX (kg/t x 100)
- Inf AOX (kg/t x 100)

07

EXHIBIT 1

# WAUNA MILL FINAL EFFLUENT AOX

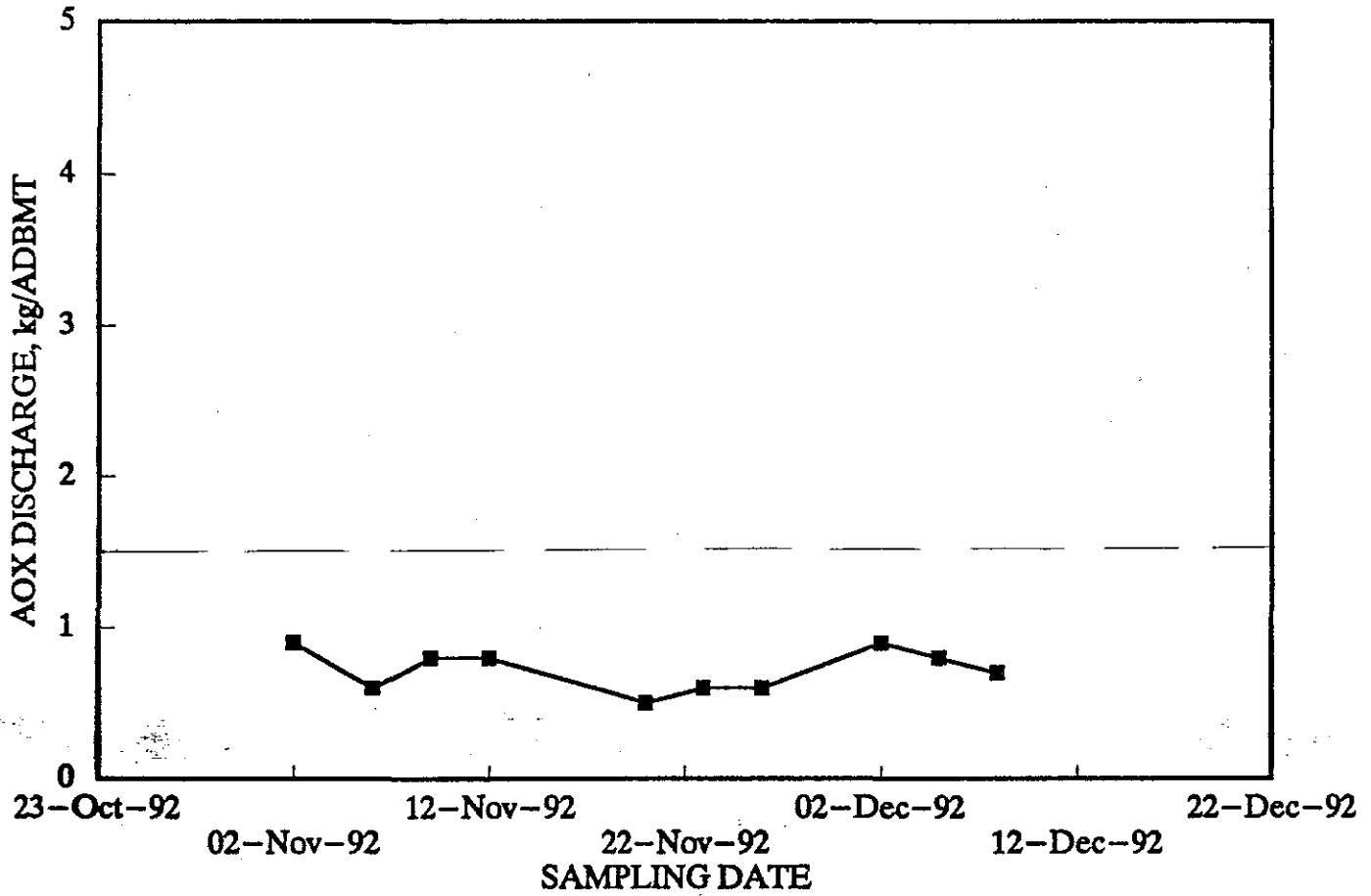
kg/ADBMT





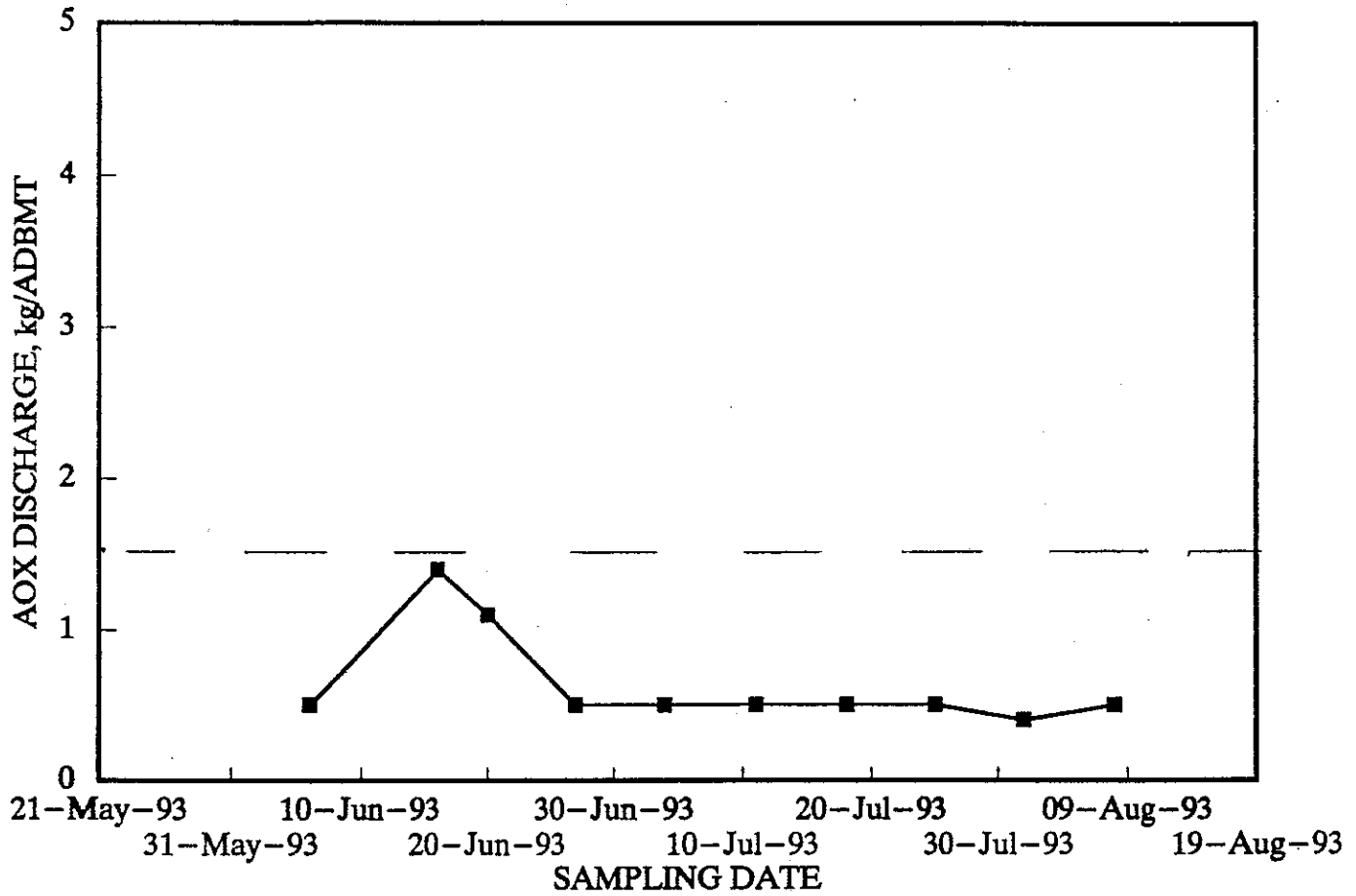
# WAUNA MILL FINAL EFFLUENT AOX

90% ClO2 Substitution



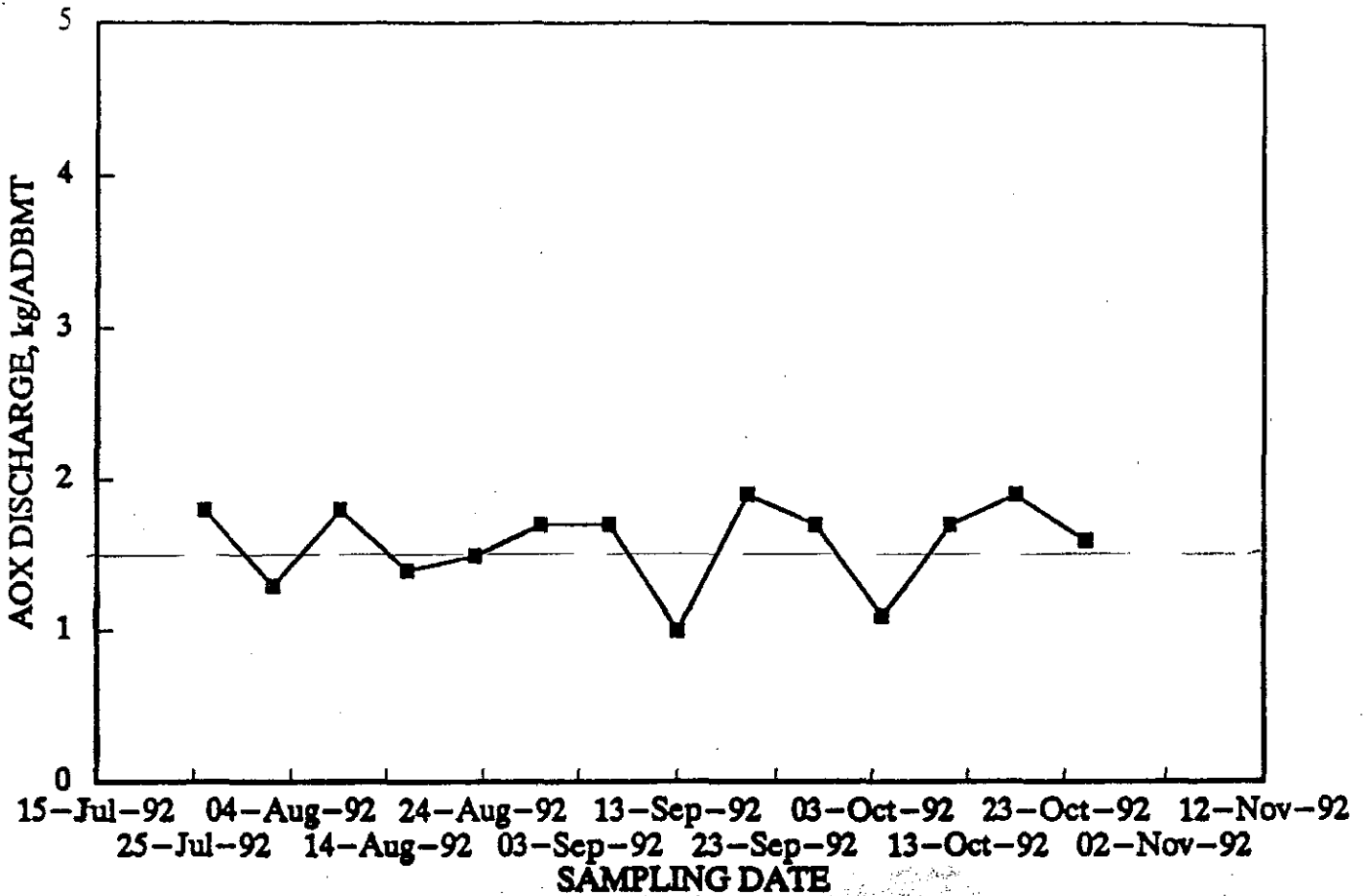
# WAUNA MILL FINAL EFFLUENT AOX

100% ClO2 Substitution



# WAUNA MILL FINAL EFFLUENT AOX

70% ClO<sub>2</sub> Substitution



## WAUNA MILL DIOXIN RESULTS SINCE THE BLEACH PLANT MODIFICATIONS

Date	% Substitution	Dioxin in Bleach Plant Effluent	Dioxin in Final Mill Effluent
02-Aug-92	70%	ND (6.4 ppq)	ND (6.4 ppq)
06-Sep-92	70%	ND (8.9 ppq)	ND (3.3 ppq)
04-Oct-92	70%	8 ppq	2.6 ppq
02-Nov-92	70 - 90%	ND (3.2 ppq)	ND (1.4 ppq)
08-Dec-92	90 - 70%	7 ppq	ND (3.3 ppq)
20-Dec-92	60%	21 ppq	ND (3.4 ppq)
07-Feb-93	50%	25 ppq	ND (4.4 ppq)
07-Mar-93	50%	12 ppq	5 ppq
25-Apr-93	50%	37 ppq	ND (4.5 ppq)

# APPLICANT REVIEW

Expiration Date: 9-30-98  
Permit Number: 100716  
File Number: 21328  
Page 1 of 10 Pages

## NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM WASTE DISCHARGE PERMIT

Department of Environmental Quality  
811 S.W. Sixth Avenue, Portland, OR 97204  
Telephone: (503) 229-5696

Issued pursuant to ORS 468B.050 and the Federal Clean Water Act

### ISSUED TO:

James River Paper  
Company, Inc.  
Wauna Mill  
Rt. 2, Box 2185  
Clatskanie, OR 97016

### SOURCES COVERED BY THIS PERMIT:

Type of Waste	Outfall Number	Outfall Location
Process Effluent	001	R.M. 42
Crawford Creek (Storm Water)	002	R.M. 42
Water Treatment Plant (Filter Backwash)	003	R.M. 42
Log Washer Effluent	004	R.M. 42

### PLANT TYPE AND LOCATION:

Bleached Kraft/Groundwood  
Pulp and Paper Mill  
Wauna, Oregon

### RECEIVING STREAM INFORMATION:

Basin: Lower Columbia River  
Sub-Basin: Clatskanie  
Stream: Columbia  
Hydro Code: 10 - - COLU 42.0 D  
County: Clatsop

EPA REFERENCE NO: OR-000079-5

Issued in response to Application No. 998951 received June 21, 1988.

This is a reissuance of the permit issued on May 26, 1992.

This permit is issued based on the land use findings in the permit record.

Charles K. Ashbaker, Manager  
Water Quality, Northwest Region

Date

### PERMITTED ACTIVITIES

Until this permit expires or is modified or revoked, the permittee is authorized to construct, install, modify or operate a waste water collection, treatment, control and disposal system and discharge to public waters adequately treated waste waters only from the authorized discharge point or points established in Schedule A and only in conformance with all the requirements, limitations, and conditions set forth in the attached schedules as follows:

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Unless authorized by another NPDES permit, each other direct and indirect waste discharge to public waters is prohibited.

SCHEDULE A

Waste Discharge Limitations

1. Effective After Permit Issuance:

<u>Parameter</u>	<u>Location</u>	<u>Loadings</u>	
		<u>Monthly Avg.</u> <u>lb/day</u>	<u>Daily Max.</u> <u>lb/day</u>
BOD <sub>5</sub>	001	11,000	22,000
TSS	001	18,600	37,200
TSS	001,003,004	24,791	46,083
<u>Limitations</u>			
Temperature	001	Shall not exceed 33°C (91°F)	
pH	001,003,004	Shall not be outside the range 5.0-9.0	

(See Note A1)

2. Effective November 15, 1993:

<u>Parameter</u>	<u>Location</u>	<u>Loadings</u>	
		<u>Annual Avg.</u> <u>lb/day</u>	<u>Qtrly Max.</u> <u>lb/day</u>
TCDD	001	6.8 x 10 <sup>-7</sup> (0.31 mg/day)	9.7 x 10 <sup>-7</sup> (0.44 mg/day)

(See Notes A2-A5)

3. Effective November 15, 1993:

<u>Parameter</u>	<u>Location</u>	<u>Loadings</u>	
		<u>Annual Avg.</u> <u>lb/ADT</u>	<u>Monthly Ave.</u> <u>lb/ADT</u>
AOX	001	3.0 (1.5 kg/ADMT)	5.2 (2.6 kg/ADMT)

(See Notes A6-A10)

4. Notwithstanding the effluent limitations established by this permit, no wastes shall be discharged and no activities shall be conducted which will violate Water Quality Standards as adopted in OAR 340-41-205 except in the following defined mixing zone:

Outfall 001

That portion of the Columbia River within 400 feet from the point of discharge.

Schedule A continued:

Outfall 003

That portion of the Columbia River within 100 feet from the point of discharge.

Outfall 004

That portion of the Columbia River within 100 feet from the point of discharge.

The discharge of TCDD is not regulated according to the mixing zone approach stated above. It is regulated according to the requirements of EPA's total maximum daily load and waste load allocation study of TCDD in the Columbia River Basin.

5. Notes for Schedule A:

- A1. When the turbidity in the Columbia River adjacent to the mill exceeds 10.5 NTU, the reported TSS discharged from the total mill (Outfalls 001, 003, 004) shall be adjusted by subtracting out the quantity of TSS measured in the intake water. The reported TSS discharged in the process effluent (Outfall 001) shall not be adjusted for turbidity in the intake water but shall be reported directly.
- A2. TCDD is defined as 2,3,7,8-tetrachlorodibenzo-p-dioxin. EPA method 1613 or an equivalent method acceptable to the Department and EPA shall be used to analyze for TCDD. Both the suspended and dissolved fractions of the wastewater shall be included in the analysis.
- A3. The TCDD discharge limitations are based on EPA's proposed total maximum daily load for controlling the discharge of TCDD into the Columbia River Basin (June 15, 1990). The waste load allocation for the James River Wauna Mill presented in Table 5-7 of that document (0.21 mg/day) is the long-term average discharge limitation that must be met by the permittee. This long-term average reflects the long-term exposure basis (70 years) used to develop the water quality standard for TCDD.
- A4. The annual average and quarterly maximum TCDD limitations have been derived statistically. They are based on the premise that effluent variability can be described by a lognormal distribution with a coefficient of variation equal to 0.6 as recommended in the EPA technical support document.

The quarterly maximum limit shall be calculated as the average of the results from the three monthly samples taken during the quarter.

Schedule A continued:

- A5. For compliance with the quarterly maximum and annual average TCDD permit limits, the point of compliance is defined as the final effluent. Until the specified TCDD discharge limitations can be measured directly at Outfall 001, the permittee will be considered to be in compliance with the discharge limitation, if the permittee maintains compliance with the AOX limits found in Condition 3. of this SCHEDULE. If the permittee is not in compliance with the AOX limits of the permit, it will also be considered to be in non-compliance with the TCDD limits of the permit, unless it can demonstrate through an acceptable method that it is in compliance with the TCDD limitations.

This method of determining compliance with TCDD is acceptable as long as the method of achieving compliance is through the implementation of chlorine dioxide substitution. If the permittee proposes to significantly change the bleaching sequence, wood species used, or other process changes which could affect the relationship between TCDD and AOX, it will request that the Department evaluate the changes to see if the method of determining compliance must be changed in the permit. If the Department determines that, with the changes proposed, TCDD compliance may not be demonstrated by achieving compliance with AOX, the permit will be reopened and a new methodology of determining TCDD compliance will be added prior to the changes being made.

In addition, in order to demonstrate compliance with the TCDD waste load allocation as specified in Condition 2. of this SCHEDULE, the TCDD concentration at Outfall 001 shall not be detectable using EPA method 1613. The recognized detection level using method 1613 for aqueous samples is 10 ppq (parts per quadrillion).

- A6. AOX is defined as Adsorbable Organic Halogens. The analytical method to be used is the SCAN-W 9:89 protocol described by the Scandinavian Pulp, Paper, and Board Testing Committee, draft EPA Method 1650A, or an equivalent method acceptable to the Department. Both the suspended and dissolved fractions of the wastewater shall be included in the analysis.
- A7. The AOX limitations are based on the quantity of pulp produced, expressed in air dried tons (ADT) per averaging period. These limitations are also listed in units of air dried metric tons (ADMT) for comparison.
- A8. The annual average limitation for AOX has been established by using Best Professional Judgement (BPJ).



Schedule A continued:

- A9. The monthly AOX loading limitation has been derived statistically from the average annual limitation and the number of samples to be analyzed per averaging period. Four samples will be analyzed per month.
- A10. The annual average discharge of TCDD and AOX shall be reported once per year based on the results of monthly and weekly sampling, respectively, conducted from November 1 through October 31, of each year.

SCHEDULE B

Minimum Monitoring and Reporting Requirements  
(unless otherwise approved in writing by the Department)

1. Effective After Permit Issuance:

<u>Parameter</u>	<u>Location</u>	<u>Minimum Frequency</u>	<u>Type of Sample</u>
Flowrate	001	Daily	Measurement
	002,003,004	Weekly	Estimate
	BPS	Daily	Calculated
BOD <sub>5</sub>	001	Daily	24-hr Composite
	002,003,004	Weekly	Grab
TSS	001	Daily	24-hr Composite
	002,003,004	Weekly	Grab
Temperature	001	Daily	Grab
Turbidity	Columbia River	Daily	Grab
Color	001	Weekly	Grab
pH	001	Daily	Grab
	002,003,004	Weekly	Grab
Bioassay	001	Quarterly	24-hr composite
AOX	001 and BPS	Weekly	3-day composite
TCDD	001 and BPS	Monthly	3-day composite
	1° and 2° sludge	Monthly	Composite

(See Notes B1-B3)

2. After November 15, 1993, the monitoring frequencies are changed for the following parameters:

<u>Parameter</u>	<u>Location</u>	<u>Minimum Frequency</u>	<u>Type of Sample</u>
AOX	001 and BPS	Monthly	3-day composite
TCDD	001 and BPS	Quarterly	3-day composite
	1° and 2° sludge	Quarterly	Composite

Schedule B continued:

3. Production and average production rates for the reporting period:

Kraft Pulp (ADT)  
Groundwood Pulp (ADT)  
Market Pulp (ADT)  
Integrated Paper (MDT)  
Nonintegrated Paper (MDT)

(See Note B4)

4. Reporting Procedures:

Monitoring results shall be reported on approved forms. The reporting period is the calendar month. Reports must be submitted to the Department by the 15th day of the following month. For TCDD analysis, reports must be submitted within 105 days of the end of the reporting period.

5. Notes for Schedule B:

B1. BPS is defined as the combined bleach plant waste stream.

B2. AOX and TCDD samples shall be collected during the same 3-day period for comparison.

B3. Representative samples of waste sludge removed from the primary and secondary clarifiers shall be analyzed separately.

B4. The average production rate for the period is defined as the total production for the period divided by the number of operating days during the reporting period. Pulp shall be reported in air dried tons (ADT) and paper shall be reported in machine dried tons (MDT).

**SCHEDULE C**

Compliance Conditions and Schedules

1. The permittee shall evaluate the occurrence of TCDD and AOX at the wastewater treatment plant and comply with the following:

By November 15, 1993, the permittee shall be in compliance with the TCDD limits established in Schedule A.

By November 15, 1993, the permittee shall be in compliance with the AOX limits established in Schedule A.

**SCHEDULE D**

Special Conditions

1. An adequate contingency plan for prevention and handling of spills and unplanned discharges shall be in force at all times. A continuing program of employee orientation and education shall be maintained to ensure awareness of the necessity of good inplant control and quick and proper action in the event of a spill or accident.
2. Wastewaters discharging to biological secondary treatment facilities shall contain adequate nutrients for optimum biological activity at all times. An automatic flow-regulated mechanical nutrient feeding facility is recommended.
3. An environmental supervisor shall be designated to coordinate and carry out all necessary functions related to maintenance and operation of waste collection, treatment, and disposal facilities. This person must have access to all information pertaining to the generation of wastes in the various process areas.
4. When applicable federal BAT effluent guidelines have been adopted, this permit may be re-opened to include all effluent limits not already in the permit or more stringent than those presently in the permit. A schedule for achieving those limits, within the time frames established by the Clean Water Act, will also be added to the permit.
5.
  - a. The permittee shall conduct chronic whole effluent toxicity tests of Outfall 001 in accordance with the frequency specified in Schedule B with Pimephales promelas (fathead minnow) and Ceriodaphnia dubia (water flea).
  - b. The bioassay test shall be dual end-point tests in which both acute and chronic end-points are determined from results of a single chronic test. The acute end-point shall be based upon a 48-hour time period.
  - c. Bioassays shall be conducted in accordance with Short-term Methods for Estimating the Chronic Toxicity of Effluent and Receiving Waters to Freshwater Organisms, EPA/600/4-89/001 and Methods for Measuring the Acute Toxicity of Effluents to Aquatic Organisms, EPA/600/4-90/027. Quality assurance criteria, statistical analyses and data reporting shall be in accordance with these documents and Departmental requirements.
  - d. The permittee shall make available to the Department upon request the written standard operating procedures that it or the laboratory performing the bioassays is using for the bioassay tests.

Schedule D continued:

- e. An acute bioassay test shall be considered to show toxicity if the No Observed Effect Concentration (NOEC) occurs at dilutions greater than that which is found at the edge of the Zone of Initial Dilution (ZID).
  - f. A chronic toxicity test shall be considered to show toxicity if a significant difference in survival occurs at dilutions greater than that which is known to occur at the edge of the mixing zone.
  - g. If toxicity is demonstrated, then another test with the same species shall be conducted within two weeks, unless the Department determines otherwise. If the second test also shows toxicity, then the permittee shall follow the procedures described in Section h.
  - h. If two consecutive tests demonstrate toxicity, then the permittee shall evaluate the source of toxicity and submit a plan and schedule for achieving water quality standards. Upon approval by the Department, the plan shall be implemented within six months.
6. The permit limitations for TCDD placed in Schedule A will be changed, if necessary, to be consistent with refinements or revisions of the total maximum daily load (TMDL) and waste load allocations (WLAs) established for TCDD in the Columbia River Basin.
  7. Based on information available to the Department, it may at any time during the life of this permit initiate a modification in accordance with procedures outlined in Oregon Administrative Rule (OAR) 340-45-055.

P21328W.5R (10-4-93)

# Environmental Quality Commission

- Rule Adoption Item
- Action Item
- Information Item

Agenda Item *K*  
October 29, 1993 Meeting

**Title:**

Willamette River Basin Water Quality Study

**Summary:**

This information report summarizes the findings of Phase I of the Willamette River Basin Water Quality Study. Results of the initial modeling efforts are presented along with invertebrate/vertebrate bioassessment results.

Study recommendations for Phase II of this project are also presented along with a brief Phase II status report.

**Department Recommendation:**

The Department recommends that the Commission accept this report.

*Barbara J. Priest*

Report Author

*Michael Bonn*

Division Administrator

*Jell Hamm*


Director

October 18, 1992

State of Oregon  
Department of Environmental Quality

Memorandum<sup>†</sup>

Date: October 4, 1993

To: Environmental Quality Commission  
From: Fred Hansen, Director   
Subject: Agenda Item K October 29, 1993, EQC Meeting

Willamette River Basin Water Quality Study

Statement of Purpose

Phase I of the Willamette River Basin Water Quality Study is completed. Findings of Phase I and recommendations for Phase II are presented as an informational item.

Background

Over the next decade municipalities and industries are expected to spend over a billion dollars to develop and maintain wastewater treatment facilities to protect water quality for beneficial uses. DEQ is in the process of examining the Willamette River basin to identify existing water quality conditions and develop a river water quality model to evaluate dissolved oxygen levels and the impacts of nutrients. Waste load allocations for specific industries and municipalities can then be determined for these parameters.

The long term objective of the study is to construct a complete data base with operative computer models of the basin to enable state, local and federal agencies to cooperatively insure the preservation and beneficial uses of the river. The short term goal is to provide DEQ with knowledge and technical means to carry out its responsibilities under state and federal law which apply to the water quality of the basin. The Study is a cooperative effort funded by the State, U.S. Geological Survey (USGS), municipalities and industry. Phase I of the four year plan began in 1991 with the establishment of a technical steering committee (see Attachment 1).

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<sup>†</sup>Accommodations for disabilities are available upon request by contacting the Public Affairs Office at (503)229-5317(voice)/(503)229-6993(TDD).



### Phase I Findings

The majority of the study was contracted out to: 1) Tetra Tech; 2) U.S. Geological Survey; and 3) Oregon State University (OSU). At this time, only the Tetra Tech and OSU portions of the study have been finalized.

#### Tetra Tech

Three types of computer models were developed to predict water quality impairment from pollution: 1) a point source model looking at discharges of toxics, oxygen-demand and nutrients; 2) a model to deal with point source dissolved oxygen and nutrients; and 3) a nonpoint source model including sediment runoff, nutrients, oxygen-demand, and bacteria.

The nonpoint source model suggests that at least 90 percent of the source load enters the river during wet months and that agriculture is the major contributor. The model is not fully calibrated due to the limited number of storm based field samples and further sampling is needed.

Point source toxics modeling, developed from 1992 field data and historical toxics data, could not be verified due to limited field data and a lack of monitoring data from point source discharges. The model will be used to predict water column and sediment concentration inputs of dioxin, DDT, arsenic, chromium, copper, lead, and zinc. This model will be used to determine where additional sampling should be conducted.

The point source dissolved oxygen and nutrient model was calibrated but not verified due to a lack of historical data and field data. The model calibration showed that sediment oxygen demand (SOD) is a significant sink for dissolved oxygen in the lower river.

The main stem aquatic community was evaluated using EPA Rapid Bioassessment Methodology to examine invertebrates in shallow riffle and soft sediment habitats and to examine several fish communities using several methods. Aquatic invertebrates from shallow riffles were slightly-to-moderately impaired compared to the reference station upstream from Eugene. Aquatic invertebrates from soft sediments were moderately-to-severely impaired compared to the reference site.

Fish communities were evaluated from nineteen sites. Results indicated that the bio-integrity of the assemblage decreased from the upper to lower sites, but were somewhat larger in the lower river than those found in 1983.

Northern squawfish or large scale suckers were collected at seven sites. The two upstream sites (down stream of Corvallis and Springfield) contained more abnormalities than those downstream. Juvenile northern squawfish were collected at four sites. Minor deformities were found in the Portland Harbor and downstream of Springfield and Corvallis. Elevated skeletal deformities were found downstream of Newberg.

In general:

- o Biological life in the mainstem is good in the far upper reaches, fair in the middle reaches and poor below mile 39 (Wilsonville area).
- o There are fish skeletal abnormalities extending the length of the river.  
However, we do not know what is a normal rate of abnormalities.
- o EPA modeling procedures for ecological communities appears to work in the river.
- o The model for dissolved oxygen and nutrients is basically complete.
- o The bacteria results are different than the historic results, and industrial discharges should be monitored for bacteria.
- o Nonpoint sources are major contributors to pollutant loading in the river.
- o The toxics model is acceptable to EPA but needs to be calibrated with additional data.

U.S. Geological Survey

The U.S. Geological Survey is in the process of developing a dynamic river model and watershed model, sediment transport and toxic transport studies. The majority of the work is expected to be completed in 1994.

Oregon State University

Dr. Stan Gregory, Department of Fisheries and Wildlife at Oregon State University studied the patterns of algal abundance and productivity in the main stem of the Willamette River in the summer of 1992. Little data on periphyton algal dynamics exists for the Willamette mainstem. The study found that periphyton assemblages in the river generally decreased downstream, which coincides with available nutrients. Abundance and production generally increased with sewage disposal additions. Lab results found that periphyton assemblages are potentially limited by the availability of nitrogen in late summer. Modeling found that aquatic herbivores can greatly alter the periphyton dynamics and need to be considered. Further monitoring information is needed on habitat structure (channel and floodplain) to manage the Willamette River ecosystem.

### Phase II Recommendations

The Willamette River Basin Water Quality Technical Advisory Steering Committee (TASC) has recommended the following be funded in 1993-1995:

1. **Toxics (\$480,000):** A water and suspended solids study on herbicides, pesticides and selected constituents to provide information on their distribution and transportation in the basin (\$470,000.00). The sampling efforts are integrated with USGS National Water Quality Assessment Program surveys. Includes an effluent characterization program to identify new chemicals needing review, whole effluent toxicity and characterization of bioavailability and bioconcentration of effluent pollutants (\$10,000.00)
2. **SOD and Benthic Production (\$240,000):** Further study of dissolved oxygen, nutrients and algae to include field studies of sediment oxygen demand (\$150,000.00). Includes a comprehensive survey of conventional pollutants to characterize sources (NPDES permits) along with the addition of pollutant loading attributed to minor NPDES permits in the basin (\$90,000.00). Phase I used only the major mainstem permittee data due to budget limitations.
3. **Nonpoint Sources (\$220,000):** Determine the nature and extent of nonpoint source pollution from agricultural lands through sampling and evaluating a sub-basin.
4. **Ecological Monitoring (\$ 250,000):** Continue biological monitoring to verify the rapid bioassessment protocols and determine bio-integrity. Includes follow up monitoring of skeletal abnormalities, fish and invertebrates.

### Phase II Status

DEQ in coordination with TASC has let two sole source contracts for portions of the ecological studies. A Request for Proposals has been finalized and was advertized during the week of October 11, 1993. A contractors workshop was held on October 22, 1993.

DEQ is in the process of signing a Memorandum of Agreement (MOA) with the U.S. Geological Survey, finalizing a scope of work and a list of deliverables. MOAs are being finalized with the Association of Oregon Industries, and Associated Clean Water Agencies for continued funding of Phase II studies.

### **Summary of Public Input Opportunity**

TASC meets monthly and all meetings are open to the public. In addition three public informational meetings were held this spring in Eugene, Albany-Corvallis and Portland to present the Phase I results and Phase II recommendations. Input from the public has been solicited (see attached form).

A brochure has been developed and distributed to various state and Federal agencies as well as local interest groups (see attached brochure). DEQ has distributed copies of the Phase I Summary Report to county, city and university libraries throughout the basin. Minutes from the TASC are being made available at DEQ offices along with all available subconsultant reports. DEQ maintains a monthly mailing list of over 300 interested agencies and associations. Over a thousand names are maintained on a list of interested parties who are notified of public meetings and local talks related to the Willamette. DEQ also has a list of groups who are interested in having a speaker on the Willamette.

### **Conclusions**

The Committee and DEQ believe the Study is important considering the continued population increase and industrial expansion which is occurring in Oregon. Continued funding of this study through the legislature will assist the Department in maintaining the existing beneficial uses in the basin. Funding for the study has been provided with State, Federal and local associations. It hinges on intergovernmental cooperation to provide accurate information to protect and manage the Willamette Basin.

### **Intended Future Actions**

The committee and Department plan to take the Phase II studies out for contracting in the fall of 1993.

### **Department Recommendation**

None.

### **Attachments**

- 1) List of TASC members

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- 2) TASC Letter to the Legislature
- 3) 1993 brochure

**Reference Documents (available upon request)**

- 1. Minutes of Committee Meetings
- 2. Phase I Final Tetra Tech reports
- 3. OSU Final Report
- 4. USGS progress reports
- 5. Quarterly budget reports

Approved:

Section:

Neil Mullan

Division:

Michael Brown

Report Prepared By: Barbara Priest

Phone: 229-5945

Date Prepared: October 4, 1993

\*\*\*Priest  
\*\*\*EQC10.93  
\*\*\*Oct 4, 1993

WILLAMETTE RIVER BASIN WATER QUALITY STUDY  
TECHNICAL ADVISORY STEERING COMMITTEE  
-- Current Membership List, May 17, 1993 --

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Patricia Benner, Stream Ecologist 2030 S.E. DeBord Street Corvallis, OR 97333	753-9318 (Home) 750-7329 (FAX)
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**WILLAMETTE RIVER BASIN WATER QUALITY STUDY:**

**SUMMARY**

**BY THE TECHNICAL ADVISORY STEERING COMMITTEE**

**TRANSMITTING THE 1991-1993 REPORT**

In delivering this report to the Oregon Legislative Assembly the committee believes it will be helpful to legislators and the general public to outline the reasons for the study. We sketch first the origin of the study, then describe briefly the history of the river since the early nineteenth century, and the impact which man has had upon it. We then summarize results of the first two years work and conclude with a summary of our recommendations for the next two years.

**1. Origins of the Study**

In the mid-1980s the Oregon Department of Environmental Quality (DEQ) concluded that a comprehensive study of Willamette basin water quality was necessary and identified this need in its proposed budget in 1985. However, the necessary funds were not appropriated. In 1987 amendments to the federal Clean Water Act required the DEQ to list state waters that exceeded limits for toxins previously set by the DEQ and further required DEQ to make a report every two years of such deficiencies to the EPA. The federal legislation also required the DEQ to develop management plans to reduce discharges into rivers where those discharges exceed state standards establishing a total maximum daily load.

In response to this federal mandate, the DEQ published a list in its 1988 water quality report which, among other things, showed discharge of the chemical compound dioxin into both the Columbia and Willamette rivers was exceeding water quality standards. Pulp mills were identified as the major source according to data gathered from various federal and state agencies. Dioxin, a member of the organochlorine family of chemical compounds, is considered deleterious to living organisms. Environmental organizations, members of the public, government agencies and industry were understandably concerned with the implications of these preliminary findings. The Association of Clean Water Agencies (ACWA) was also concerned with the DEQ's Triennial Review of water quality standards required by the Clean Water Act because of potential limits on discharges which affected levels of dissolved oxygen.

The concerns of these diverse interests led the Legislative Emergency Board to provide \$5,000 in the spring of 1990 to Oregon State University to prepare a plan to identify toxic elements in the river. The Emergency Board also provided \$25,000 to the DEQ for a technical advisory committee to plan a comprehensive study of water quality in the river basin. The Emergency Board further set aside \$100,000 to fund a toxin study at Oregon State University, provided it was approved by the technical advisory committee. Pope & Talbot, Inc., which operates a pulp mill on the main stem of the Willamette, agreed to match the Emergency Board contribution, making a total of \$200,000 to support the Oregon State University study. The speaker of the House and the president of the Senate followed, directing the DEQ to prepare a comprehensive study of water quality in the basin and to appoint the technical advisory committee to assist the department in developing the study.



The long-term goal of the study is to provide an extensive data base for the river basin with operative water quality models that will enable policy makers at federal state and local levels to ensure cooperatively the preservation and enhancement of the beneficial uses of the Willamette River system.

The committee thus established has twelve members: Two public (the chair and vice chair), two from industry, two from clean water agencies, two from environmental organizations, one from the Oregon Health Division, one from the Oregon Department of Fish and Wildlife, one from the Oregon Department of Agriculture, and one from the Oregon Department of Forestry. The committee is staffed by the Oregon Department of Environmental Quality (DEQ), and has met monthly for the last three years. As is evident from the directive establishing its membership, the committee was and is intended to reflect a balance of interests both public and private. The committee members, understanding this desire for balance, adopted bylaws which make clear that while members were expected to bring forward for discussion the concerns of the organizations from which they were drawn, they are obligated to maintain and advance scientifically substantiated positions in the course of their deliberations.

#### **History of the Willamette River and the Impact of Man.**

When the first settlers arrived in the Willamette Valley in the 1830s, the river flowed from its mountain origins through the valley substantially unaffected by man. The physical changes in the valley since then have been many. Tributaries have been dammed for flood control and power generation. The flood plains have been contracted. Multiple channels have been eliminated, forested banks reduced in number and converted to agriculture. Substantial portions of the river banks have been ripped

with stone, and wood debris has been cleared from the river. The construction of dams on the principal tributaries has greatly reduced flooding of the original flood plain.

These changes, many of which were intended to achieve improvements in the use of the river, have had significant and frequently deleterious effects upon the river system as a habitat for organisms living in and upon it. A free flowing, winding, flooding river has been significantly confined, molded and modified in an increasingly populated valley.

In addition to these physical changes, human discharges into the river had an obviously deleterious effect upon the quality of the Willamette River's waters. By the 1930s untreated sewage and discharges from canneries, slaughterhouses and other industries had converted the main stem of the river into an open sewer in which migrating salmon died. In 1938 the people by the initiative created the State Sanitary Authority. Primary and secondary sewage treatment plants were built, and industrial discharges were limited. The health of the river improved substantially. The salmon runs improved. The river could once again be safely used for recreation. Tom McCall, who later became governor, narrated a television commentary on the Willamette River cleanup that became famous nationwide.

However, the past quarter century has brought a dramatic increase in the population of the valley. Substantial industrial growth has occurred. Runoff from urban surfaces and from agricultural land has increased. More effluent is discharged from treatment plants. Industrial discharges contain increasingly complex chemicals the effects of which are not yet understood. Willamette River water will be needed as an additional source of drinking water by some communities. Serious questions are raised

concerning the present health of the river and its capacity to absorb the impact of the projected addition of 500,000 people in the next twenty years. These questions cannot be answered without a comprehensive understanding of the health of the river and the forms of biologic life dependent upon it. The river is more than a column of water flowing down its channel to the sea. It is a medium in which a chain of organisms live or feed upon - organisms such as bacteria, algae, mosses, crustaceans, insects, fish, birds and mammals. Everything that goes into the river can and does affect that chain of life. For example, some chemical compounds such as organochlorines tend to be persistent in the environment. They can collect in bed sediment, be taken up in the food chain and accumulate in certain forms of life such as birds or fish. Human activities may alter the balance of oxygen or nitrogen in the water and so affect living organisms. The occurrence of certain combinations of chemicals or conditions may have a compounding effect upon the health of the river. It is a very complex business, and there is a lot we do not know.

#### **The First Phase of the Study**

The committee first met on April 23, 1990, faced with a deadline of May 16, 1990, to report on the toxin proposal to the Emergency Board. Meeting weekly, the committee reviewed both the preliminary draft of the DEQ comprehensive study and the Oregon State proposal on toxins. The committee found that the toxin proposal with some modification was scientifically sound though limited in scope, and concluded it was compatible with a comprehensive study of the river basin. The committee reported to the Emergency Board on May 16, 1990, with a recommendation that the Oregon State study be approved and the funds released.

Phase I of the comprehensive plan was developed and presented to the Legislature in 1991. Because of budget constraints the Technical Advisory Steering Committee sought to fund the DEQ study using a match of contributions - \$400,000 from the state, \$250,000 from Associated Oregon Industries, \$250,000 from the Association of Clean Water Agencies (ACWA), and a \$350,000 work match with the United States Geological Survey plus \$25,000 saved by the committee from the previous biennium. This combination was approved by the 1991 Legislative Assembly and the department and the committee went to work.

Phase I (1991-1993) was designed, within the limits of a very tight budget, to begin creation of a data base by collecting samples from the main stem of the river from which problems in the health of the river and in the health of the organisms dependent upon it could be identified, and to select computer models which, when calibrated and verified, could be used to predict the consequences of differing human impacts upon the river. Computer programs, when so constructed, are far more economical and more accurate than repetitive sampling and calculation. They provide a more effective way for public agencies and private interests to develop and react to public policy decisions on water quality. From the outset the data base established and the computer models selected and calibrated were intended to be available to public agencies, interest groups, industry and the public at large.

The DEQ appointed a study coordinator, Don Yon, and more recently Barbara Priest, to staff the committee and to manage the study. An intergovernmental agreement was signed with the United States Geological Survey (USGS) to cover its share of the work, and agreements were signed with the other funding partners, Associated Oregon Industries (AOI) and the

Association of Clean Water Agencies (AOSA). The study coordinators have made detailed quarterly reports to the Emergency Board and the other funding partners which set forth the schedule of tasks, the work accomplished and funds expended. The DEQ has vigorously supported the work of the committee through the effort of the coordinators and by the participation of senior department officials Neil Mullane and Robert Baumgartner at critical stages of the study.

The department at the outset sent requests to some 200 consultants to submit statements of qualification to carry out the balance of the work. The committee reviewed the qualifications of all consultants who responded with interest, approved a short list of six to interview, and approved the department's selection of two to do the work. Tetra Tech, Inc., and Dr. Stanley Gregory of Oregon State were selected and their work plans approved.

Meanwhile the department issued invitations to a number of technical experts to serve on a peer review panel. Some twenty-five accepted, twenty agreeing to serve without compensation. The draft scopes of work of the consultants were reviewed by the panel, their comments and suggestions were reviewed by the committee and the department staff, and many suggestions were incorporated in the final contracts. The draft final reports of the consultants were then forwarded to peer review panel members for written review and report. Their comments were reviewed by the department, the committee and the consultants.

The committee held public meetings at which the study was presented and discussed at Eugene May 27, 1993, at Portland June 2, 1993, and between Corvallis and Albany June 3, 1993. All meetings of the

committee are public, and a large number of individuals and organizations are on the committee's mailing list.

### Results of Phase I

Three computer models capable of predicting water quality impairment due to inputs from pollutant sources were developed: a toxics model to deal with point source discharge, transport and sedimentary accumulation of toxics, a second model to deal with oxygen-demanding substances, nutrients and algal growth, and a third model to deal with nonpoint sources consisting of runoff of sediment, nutrients, oxygen-demanding substances and indicator bacteria from urban, farming and forested areas.

The nonpoint source model suggests that more than 90 percent of the nonpoint source load enters the river during wet months, that the majority is delivered in a few large storms and that agricultural lands are a major contributor. The model could not be fully calibrated or verified in Phase I due to the limited number of storm-based field samples. Further sampling is necessary.

The point source toxics model was developed using 1992 field data and historical toxics data. The model predicted water column and sediment concentrations for inputs of dioxin, DDT, arsenic, chromium, copper, lead and zinc. The model could not be fully calibrated and verified due to limited field data and lack of monitoring data from a number of point source discharges. The function of this model is to assist DEQ in determining, in a cost efficient way, where additional toxic sampling should be conducted. Further sampling is necessary.

The point source dissolved oxygen-nutrient model was calibrated but not verified due to lack of historical data and additional field

data. Further data is necessary for verification. The model calibration showed that sediment oxygen demand was a significant sink for dissolved oxygen in the lower river.

The aquatic community in the main stem was evaluated using the EPA Rapid Bioassessment Methodology (RBP) to examine invertebrates in shallow riffle and soft sediment habitats, and to examine fish communities using several methods.

Aquatic invertebrates were collected at sites in shallow riffle areas. All were slightly to moderately impaired compared to the reference station upstream from Eugene. Aquatic invertebrates were collected at fifteen soft sediment sites. Three sites were identified as moderately to severely impaired compared to the reference site.

Northern squawfish or large scale suckers were collected at seven sites and the condition of external features and internal organs were examined and scored. The two most upstream sites (downstream of Springfield and Corvallis) contained a greater percentage of abnormal fish than sites further downstream.

Fish communities were collected at nineteen sites by electroshocking and evaluated using an EPA Rapid Bioassessment to determine the assemblage of fish (numbers, weight and length). The results were compared to a similar study made in 1983. The results indicated that the biological integrity of the assemblage decreased from upper to lower river sites but was somewhat larger in the lower river than that found in 1983.

Juvenile northern squawfish were collected at four locations. Similar deformities were found in Portland harbor and downstream of Springfield and Corvallis ranging from one to two percent. Elevated skeletal

deformities were found downstream of the city of Newberg in thirteen percent of the fish.

#### **Comment on results of Phase I**

The detailed findings are set forth in the final report. The committee does, however, have several comments on method and material. The process which has been followed is one of rigorous study and scientific review. Policy decisions relating to human health, land use, agricultural methods and industrial development will be made by the Legislature, public agencies, private industry and Oregon voters based on the data created, using the models chosen and the condition of the river revealed by this and subsequent studies. Every step must be based on sound science. For these reasons the committee urges that the material be studied carefully and that conclusions not be drawn beyond those supported by the evidence.

In general the sampling of biological life in the main stem of the river from mile 185 to the mouth (numbered 0) shows that its condition ranges from good in the far upper reaches to fair in the middle reaches and poor below mile 39. Fish taken as samples were examined for external signs of impairment. Suckers and squawfish were dissected and the condition of certain organs evaluated. Abnormalities both internal and external were noted in fish taken at all nine stations. The percentages as well as the variation in abnormal findings from station to station call for further careful study. We do not know, for example, what is a normal rate of abnormality in either squawfish or sucker. We also need to replicate the sampling another season to see if the results are consistent. 1992 was an extreme low flow water year following several years of drought.

It is also not clear from the present data whether or how these findings are affected by fish migration and life cycle. It is not surprising



that the biological condition of the river should degrade to some extent as it flows through a populated valley, but we need to identify the causes if the results prove to be consistent. Are they chemical and attributable to an increased load of pollutants? Are they caused by alteration of the physical habitat by man? Once the knowledge is obtained then policymakers can determine the extent to which degradation is acceptable, whether remediation is possible and whether additional burdens can be sustained.

The EPA procedures developed for modeling ecologic communities such as invertebrates and fish as a way of evaluating water quality have been based on techniques developed for small streams. This study suggests that they may be reliably applied to a river as large as the Willamette with only minor adjustment bearing in mind that selection of valid reference sites is essential to accurate interpretation of data. This is a major step because the DEQ is charged under federal law by EPA with developing qualitative and numerical standards for water quality in the Willamette and its tributaries during the next three years.

With respect to dissolved oxygen and nutrients, the results of the study show that we now have a model that is essentially complete. This will enable the DEQ to evaluate the impact of existing and potential burdens of these substances and ground permit conditions on a scientific basis.

With respect to bacteria the study's findings do not match up with historic data. Some differences may be explainable in terms of variation as to the place of sampling. DEQ has historically sampled in midstream. Tetra Tech in this study took samples at the shoreline. These differences need to be resolved. They also suggest the necessity of more frequent sampling at a range of locations on the river. More important is the fact that the bacteria count is higher than the recognized sources account for. This

may be attributable to the possibility that permitted industrial discharges may also produce coliform bacteria, and they can grow naturally in the river.

#### **The United States Geologic Survey Share of the Work.**

The USGS, as a part of its National Water Quality Assessment Program (NAWQUA), is developing in its work match with DEQ a dynamic river model, a watershed model, and studies of sediment transport and toxic transport in the Willamette and its tributaries. The dynamic flow model is designed to answer questions where un-steady state flow is important, especially in the matter of toxic transport. The watershed model is designed to answer questions linking land use to water quality. The sediment transport study is designed to help determine the transport of toxics attached to suspended sediments. Finally, the study of toxics in water and sediment is designed to determine their occurrence and assess their distribution.

The USGS sampling in Phase I studies is substantially complete. The data have been made available to Tetra Tech for use in development of its steady state models. USGS has used the Tetra Tech fish samples for its analysis. DEQ, Tetra Tech and USGS have coordinated the development of ecological sampling procedures (protocol). The USGS toxics analytical work is moving through the available laboratories and will be completed in 1994 together with the USGS combined model report.

#### **Recommendations of the Technical Advisory Committee for Phase II Studies (1993-1995)**

The committee proposes that Phase II be funded using the same funding partnership employed during Phase I, to build upon the information gathered to date and to complete the calibration and verification of the models developed. In arriving at these recommendations the committee has

taken into consideration specific criteria. Does the recommendation fall within the overall mandate given the committee by the Legislature? Will the information gained from the study add to the knowledge already derived from the studies in Phase I? Will the recommended studies assist the Legislature and the DEQ in reaching both short term and long term goals for managing the Willamette River? Finally, will the information gained from the recommended studies be useful to other public agencies and private interests, industrial and environmental, as we move to coordinated management policies for the river?

The committee's recommendations for Phase II are the following:

1. A water and sediment quality survey, including point source and tributary monitoring, to provide calibration data for specific chemicals of concern (\$250,000). Further development of the models is highly desirable as a cost saving method of analysis of toxic discharges.
2. An effluent characterization program that would identify new chemicals requiring review, examine whole effluent toxicity, and more fully characterize bioavailability and bioconcentration of effluent pollutants (\$10,000).
3. Further study of dissolved oxygen, nutrients and algae to include field studies of sediment oxygen demand (\$75,000), and a comprehensive survey of National Pollution Discharge Elimination System (NPDES) permitted point sources for Carbonaceous Biochemical Oxygen Demand (CBOD) and nutrients, including thirty-three major sources and random sampling of twenty minor sources (\$45,000). Dissolved oxygen available for aquatic organisms is related directly to the amount of oxygen-demanding waste discharged into the river. These studies will further the

committee's effort to determine the true assimilative capacity of the river, information essential to a determination of the extent to which growth can be accommodated.

4. The committee does not recommend further work on bacteria during Phase II. The triennial review required by the federal Clean Water Act is underway. An advisory committee of experts has been convened to review the existing science surrounding the issue of appropriate ambient standards for bacteria. It appears that fecal coliform bacteria may be abandoned for E- coli bacteria as the measuring standard. With this process under way the committee believes that further work in this field should be deferred until completion of the review process.

5. Study of pollutant loading attributable to one hundred nine minor NPDES permittees (\$45,000). The present impact of these discharges is not well understood but may be of significance in certain segments of the river. This level of funding will allow analysis of conventional pollutant loads from these permittees.

6. The committee proposes a major initial effort to examine: (1) the nature and extent of nonpoint source pollution from agricultural lands, (2) the effect of riparian habitat loss upon the extent of nonpoint source pollutant transport and attenuation, and (3) the relationship between timing of nonpoint source loads and low-flow concerns. The committee has recognized and is concerned with the present emphasis upon point source discharges. Evidence collected in Phase I and historical data suggests that substantial problems may be attributable to nonpoint sources such as storm runoff from urban areas, agricultural lands, forest logging and recreational boating. Such problems may also be attributable to groundwater pollution from agriculture, industry, and private septic systems. It is essential that we

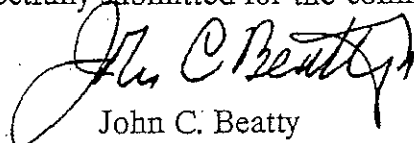
develop the facts as to each of these activities. Finally the committee proposes to monitor the flow of two tributaries largely unaffected by point source pollution in order to develop the mechanism of nonpoint source pollution (\$500,000).

7. The committee proposes further ecological studies to verify the validity of the Phase I Rapid Bioassessment Protocol for use on large rivers including attention to "within site" variability and the best combination of metrics and scoring criteria to evaluate biointegrity (\$250,000). The RBP and IBI methods applied by Tetra Tech in Phase I may represent an extremely useful method of determining biological integrity rather than reliance solely upon chemical or physical qualities of water and should be followed up. The committee also recommends that studies to determine the life history of the large-scale sucker would enable researchers to use this fish better as an indicator species. The Department of Fish and Wildlife has indicated it will investigate funding through the OSU Seagrant program.

#### Conclusion

The committee believes the Willamette Basin Water Quality Study is important in preparing for population increase and industrial expansion. It is more than important if we are to maintain the livability of the Willamette River basin. We think this study is an impressive example of public, private and intergovernmental cooperation designed to provide the information necessary to manage and protect the beneficial uses of this river basin.

Respectfully submitted for the committee,



John C. Beatty

June 29, 1993

State of Oregon  
Department of Environmental Quality

Memorandum

Date: October 29, 1993

**To:** ENVIRONMENTAL QUALITY COMMISSION  
**From:** Olivia Clark, Assistant to the Director  
**Subject:** EQC REQUIRED ACTION RESULTING FROM 1993 LEGISLATION

Listed below are bills from the 1993 Legislative session that will require action by the Environmental Quality Commission. In most cases this required action involves rule revisions and review of reports to the legislature. This list is divided by DEQ Division.

AIR QUALITY

SB86 Industrial Air Pollution Control Program

The Commission has already begun its work on the rule packages associated with this legislation at the September 10 meeting. The rules implementing the new fees will come to the Commission at its October 29 meeting as well as rules regarding the standards revisions (including the highest and best rule) and an enforcement package.

HB2214 Governor's Task Force on Motor Vehicle Emissions

The Air Quality division may have a variety of rule packages coming to the Commission regarding the implementation of the strategies contained in HB2214. These strategies include the vehicle inspection program and its boundary, parking ratios, employer trip reductions and lawn and garden equipment. In addition, the bill instructs the Department to study alternatives to collecting new motor vehicle registration fees in a manner related to vehicle emissions. The EQC will review the Department's study before submittal to the Legislature.

WATER QUALITY

HB2070 State Revolving Fund

Rules incorporating the SRF leveraging authority will come to the Commission in March 1994. Future bond sales resulting from this new authority are targeted to come to the Commission in the Summer of 1994.

Memo To: ENVIRONMENTAL QUALITY COMMISSION  
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SB1008      Confined Animal Feeding Operations

The Commission must approve a memo of understanding (MOU) with the Oregon Department of Agriculture by January 1, 1994. The MOU will effectively transfer enforcement of the CAFO program to ODA and make the conforming rule changes. The rule package is tentatively scheduled for the December meeting.

WASTE MANAGEMENT AND CLEANUP DIVISION

HB3177    Orphan Site Clean Up & Spill Response

Authorization of the five million dollar bond sale approved by the legislature will come to the EQC at the October meeting.

SB42      Statute Rewrite

The Department will propose administrative rule changes to conform with these statutory changes as a part of a larger comprehensive solid waste rulemaking targeted for Spring or Summer of 1994.

SB1012      RCRA Subtitle D: Landfills

Administrative rules are needed to implement this law which modifies existing solid waste statutes so the Department can implement the federal solid waste disposal rules. Much of the rulemaking will focus on financial assurance requirements for landfill operators. The rule package will be a part of the same proposal listed above.

SB1037      Solid Waste Fees Assessment and Collection

Also part of the same comprehensive package targeted for Spring or Summer 1994, proposed rulemaking to implement SB1037 will change how the solid waste permit fee is paid for some permittees. The permit fee payment schedule will be changed to correspond with the solid waste disposal fee payment schedule.

SB1036          Solid Waste Fees for Out-of-State Disposal

Beginning January 1, 1994, the solid waste disposal fee will be assessed on solid waste leaving the state for disposal. An administrative rule is needed to describe to whom this fee applies and how it will be paid. Adoption of the rule package before January 1 is necessary, and is scheduled for EQC consideration December 10.

SB1009          Rigid Plastic Container Recycling

Three advisory task forces and a separate rulemaking process will be used to implement this bill and the plastics recycling statute passed in the 1991 Legislative session. The proposed rules will address how rigid plastic containers comply with the law. The proposal should come before the EQC during later Spring or early Summer 1994. The EQC will also review a report to the 1995 Legislature outlining the recommendations for changing the plastics law.

SB1014          Household Oil Recycling

This legislation requires the Department to appoint an advisory committee which will recommend ways to increase used oil recycling. The EQC will review the report before submittal to the 1995 Legislature.

HB2776          Underground Storage Tank Financial Assistance

At the October 29 meeting, the Commission will review temporary rule changes to the UST Financial Assistance Program that will conform the program with HB2776. A final rule package will be coming to the January EQC meeting.

SB87            Underground Storage Tank Fees

Department rules must be changed to conform with the fee increase authorized by the Legislature in SB87. This change will be incorporated into the rulemaking package coming to the EQC in January 1994.



Agenda Items M and N are oral reports.

Approved _____
Approved with Corrections _____

*Minutes are not final until approved by the EQC*

**ENVIRONMENTAL QUALITY COMMISSION/DEPARTMENT OF  
ENVIRONMENTAL QUALITY**

Thursday, October 28, 1993

**Retreat**

The Environmental Quality Commission met with senior staff of the Department of Environmental Quality at the Menucha Retreat and Conference Center, 38711 East Crown Point Highway, Corbett, Oregon 97019, for informal discussions. Discussion topics included limits on EQC authority and flexibility placed by federally delegated programs, and a general discussion of what the future holds for environmental protection efforts. The Department also provided examples of how it approaches the development of recommendations on substantive program issues and internal management policies. The discussions were in a free-form manner, and no record was maintained.

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Minutes of the Two Hundred and Thirty Second Meeting  
October 29, 1993

**Regular Meeting**

The Environmental Quality Commission regular meeting was convened at 8:30 a.m. on Friday, October 29, 1993, in Conference Room 3A, Oregon Department of Environmental Quality (DEQ), 811 S. W. Sixth Avenue in Portland, Oregon. The following commission members were present:

William Wessinger, Chair  
Dr. Emery Castle, Vice Chair  
Henry Lorenzen, Commissioner  
Linda McMahan, Commissioner  
Carol Whipple, Commissioner

Also present were Michael Huston, Assistant Attorney General, Oregon Department of Justice, Fred Hansen, Director, DEQ, and other DEQ staff.

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**Note:** Staff reports presented at this meeting, which contain the Department's recommendations, are on file in the Office of the Director, DEQ, 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.

**A. Approval of minutes.**

Commissioner Castle moved that the minutes of the September 10, 1993, regular meeting be approved; Commissioner Whipple seconded the motion. The September 10, 1993, regular meeting minutes were unanimously approved.

**Correction:** The minutes for the September 10, 1993 meeting should be corrected as follows on the bottom of page 1:

Commissioner Whipple moved that the minutes of the ~~September~~July 22 work session and ~~September~~July 23 regular meeting be approved; Commissioner Castle seconded the motion. The ~~September~~July 22, 1993, work session minutes and ~~September~~July 23, 1993, regular meeting minutes were unanimously approved (4-0).

**B. Approval of tax credit applications.**

The Department recommended the issuance of tax credit certificates for 23 applications as listed below.

Application Number	Applicant	Description
TC 2996	Norpac Foods, Inc.	A sprinkler irrigation system to reduce the application rate of industrial wastewater.
TC 3808	Mt. Emily Seeds	A pneumatic waste collection system, bagfilters and two semi-trailers for preventing grass seed particulate emissions to the atmosphere.

Application Number	Applicant	Description
TC 3864	Portland General Electric Company	A fueling station for mobile equipment consisting of two double-walled steel tanks with interstitial containment, thermal protection, vents, valves and fiberglass piping.
TC 3898	J.C. Compton Contractor, Inc.	A CMI RA-318P Portable Fabric Filter Pollution Control System (portable baghouse).
TC 3913	Wally F. Ackerman	An Amuson 400-T Wastewater Recycling System consisting of a flush booth, water holding tank, water treatment tank and related pumping system.
TC 3924	Paul Medina Dairy	A 30 H.P. pump, an above-ground glass lined steel holding tank and related plumbing and electrical works.
TC 3933	Rexius Forest By-Products, Inc.	A closed-loop oil/water separation recycling system for treating wastewater discharge.
TC 3936	Columbia Steel Casting Co., Inc.	A US Air Filtration cartridge-type dust collector and support equipment.
TC 3981	Portland General Electric Company	A fueling station for mobile equipment consisting of two above-ground steel tanks, concrete liner for secondary containment, overflow sump and alarm and associated valves, vents and dispensers.

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Application Number	Applicant	Description
TC 3982	Portland General Electric Company	A fueling station for mobile equipment consisting of a above-ground, double-walled steel tank, concrete liner for secondary containment, overfill sump and alarm and associated valves, vents and dispensers.
TC 3996	Portland General Electric Company	A fueling station for mobile equipment consisting of a above-ground, double-walled steel tank, concrete liner for secondary containment, overfill sump and alarm and associated valves, vents and dispensers.
TC 4023	Portland General Electric Company	A fueling station for mobile equipment consisting of two above-ground, double-walled steel tanks, concrete liner for secondary containment, overfill sump and alarm and associated valves, vents and dispensers.
TC 4046	United Grocers, Inc.	A Model V6-60-2 Vertical Downstroke Baler for processing plastic stretch wrap waste product.
TC 4088	Vahan M. Dinihanian	A 5,600 square foot pole construction type building with concrete slab floor for storage and processing of recycled plastic containers.
TC 4089	Vahan M. Dinihanian	Injection molding dies used for processing recycled plastic.

Application Number	Applicant	Description
TC 4115	Calbag Metals Company	An oil/water separator constructed on a 50' x 100' concrete paved area for the treatment of storm water runoff.
TC 4127	Boise Cascade Corporation	A three unit surge bin and support equipment for elimination of fugitive emissions to the atmosphere.
TC 4132	Alton L. Jager	Seven on-site recycling depots for recycling plastic waste products.
TC 4133	Mel's B.P., Inc.	A CFC facility including pumps, tubing, valves and filters for removing and cleaning auto air conditioner coolant.
TC 4134	Towler Refrigeration	A CFC facility including pumps, tubing, valves and filters for removing and cleaning air conditioner/commercial refrigerant coolant.

**Tax Credit Application Review Reports With Facility Costs Over \$250,000:**

Application Number	Applicant	Description
TC 3948	Oregon Waste Systems, Inc.	A cell liner and leachate collection system for module four of the Columbia Ridge Landfill and Recycling Center.
TC 3963	Boise Cascade Corporation	A top liner, surface drainage and gas collection system for the completed portion of a clarifier solids industrial landfill.
TC 4018	Portland General Electric Company	An internal storm drainage and oil spill collection and containment system.

Commissioner Castle moved that the Department recommendations be approved. The motion was seconded by Commissioner Whipple and unanimously approved.

**C. Rule adoption: revisions to stationary source air quality emission standards and requirements [New Source Performance Standards (NSPS), National Emission Standard for Hazardous Air Pollutants (NESHAPS), Highest and Best Practicable Treatment and Control (H&B) and New Source Review (NSR)].**

This agenda item proposed rule amendments to provide the Department with authority to include all federal requirements in Title V permits. The amendments are necessary to have a federally approved Title V permit program and provide for necessary delegation of the federal NSPS and NESHAPS. Additionally, requirements for H&B practicable treatment are clarified and NSR updates are included. The Department recommended the Commission adopt the rules and rule amendments as presented in Attachments A1 through A5 of the staff report.

Director Hansen introduced this agenda item, and Steve Greenwood and Andy Ginsburg of the Department's Air Quality Division provided a brief summary of the report. Mr. Ginsburg presented a diagram of the Title V umbrella and explained what program elements and activities are included within Title V of the Clean Air Act (CAA) amendments. Chair Wessinger asked about the industries affected by these rules. Mr. Greenwood indicated that the rules will influence only major industries. He said the Department received numerous comments about the H&B Practicable Control rule. Mr. Greenwood added that the rules amend the State Implementation Plan (SIP), provide new source performance standards and NESHAPS delegation. Commissioner Whipple asked about chemical weapons and the U. S. Army Depot in Umatilla. Director Hansen said that even though the depot was a federal facility they still must obtain the appropriate state permits to operate. He also added that the small business assistance program provides technical assistance that is necessary for those sources not in the regulatory framework.

Action: Commissioner Castle moved approval the rules as proposed in Attachments A1 through A5 of the staff report; Commissioner Lorenzen seconded the motion. The motion was unanimously approved.

**D. Rule adoption: revisions to motor vehicle fuel specifications for oxygenated gasoline.**

This agenda item proposed rules which meet the 1990 CAA requirement for states to adopt contingency plans for moderate carbon monoxide (CO) nonattainment areas by November 15, 1993. Additionally, the proposed rules contain housekeeping changes to clarify and improve the organization of the oxy-fuel regulations to minimize misinterpretation. The Department recommended the Commission adopt the amendments to the motor vehicle fuel specifications for oxygenated gasoline in Attachment A of the staff report. Additionally, the Department recommended adoption of related changes to the Portland, Medford and Grants Pass CO nonattainment plans as SIP revisions. The Department also presented an amendment to clarify one of the proposed rules based on recommendation of the Attorney General's office.

John Kowalczyk and Howard Harris, Air Quality Division, presented the proposed rulemaking package to the Commission. Mr. Kowalczyk provided background information on the need for the CO contingency provision and housekeeping amendments and described the proposed revisions. The Commission inquired about the time frame for submittal of carbon monoxide maintenance plans and the relationship of the CO contingency provision to this submittal.

**Dennis Lamb**, Planning Manager at Unocal, spoke on behalf of the Western States Petroleum Association (WSPA), and **Neil Moyer** spoke on behalf of Texaco, Inc. In their individual testimonies, both supported adoption of the Department's proposal and stressed the importance of the immediate development of the Portland area CO maintenance plan.

Commissioner Lorenzen asked about the redesignation process. Staff responded that attainment must be demonstrated and a maintenance plan must be developed and adopted before the EPA can be convinced to redesignate an area to "attainment." In the case of Portland, one more season will be required to complete the necessary information to support redesignation. The other areas require extensive work including modeling, inventories and local coordination that will take at least a year.

Action: Commissioner Lorenzen moved approval of the revisions to the motor vehicle fuel specifications for oxygenated gasoline as presented in Attachment A of the staff report and amendment recommended by the Department; Commissioner McMahan seconded the motion. The motion was unanimously approved.

**E. Rule adoption: vehicle inspection program implementation plan revisions.**



This agenda item proposed rule and SIP revisions necessary to upgrade the Oregon Inspection/Maintenance (I/M) program to be equivalent to the federal requirements in the areas of: 1) computerized testing equipment; 2) inspector training, certification and discipline; and 3) enforcement.

The Department recommended the Commission adopt the rule amendments regarding vehicle inspection program SIP revisions as presented in Attachment A of the staff report.

Mr. Greenwood summarized the SIP changes pointing out to the Commission that although the current I/M program exceeds many areas of the EPA's requirements for a basic I/M testing program, the Department will be replacing existing manual testing equipment with computerized equipment and will be updating detailed procedures to meet the new EPA requirements as outlined in the SIP amendments. The Commission was notified by Ron Householder, I/M Program Manager, that certain elements of the SIP were not yet completed and that the SIP contained commitments to accomplish these elements before July 1, 1994. The Commission asked about the schedule for moving to an enhanced testing program in Portland. They were informed that testing of a small segment of vehicles will begin in 1996, and testing of all late model vehicles will begin about 1999.

Action: Commissioner McMahan moved approval of the Department's recommendation to adopt the rule amendments as presented in Attachment A of the staff report; Commissioner Castle seconded the motion. The motion was unanimously approved.

**F. Proposed adoption of temporary rules for the new air quality federal operating permit program to establish: 1) permit fees; and 2) asbestos inspection requirements.**

This agenda item proposed a temporary rule that would meet the 1990 CAA requirements for states to have processes for fully funding the direct and indirect costs of the federal operating permit program. It also included housekeeping amendments and asbestos survey requirements that are necessary to complete the Federal Operating Permit Program package for submittal to the EPA by November 15, 1993.

The Department recommended the Commission adopt the temporary rules and related rule amendments and findings regarding the fee structure, procedures for funding the federal operating permit program, minor housekeeping amendments and the asbestos survey requirements as presented in Attachment A of the staff report.

Wendy Sims, Air Quality Division, indicated the fee schedule in these rules had taken two legislative sessions and numerous meetings with the affected parties to develop. She said the Department's advisory committee concurred with the proposed schedule. The advisory committee believes this schedule will allow Oregon to implement the Title V program effectively.

Ms. Sims said one change needed to be made to the rules packet. In 340-28-2650(5), the word "applicable" was replaced by the word "appropriate." This section of the rule addresses how sources can pay fees on actual emissions of hazardous air pollutants. The intent, as discussed by the advisory committee, was to provide the Department with discretion to give exceptions on the criteria for determining actual emissions for certain specific emissions. Because hazardous air pollutants have not generally been regulated before, the emissions testing methodology is less developed than for the better regulated criteria pollutants. Sources may have emission points where small quantities of hazardous air pollutants are emitted, where it would not be practical to perform emissions testing because of the quantity of emissions, access, or operational limitations. Section (5) allows the Department that discretion. Using the word "applicable" caused some concern because "applicable method" has a technical meaning that is more narrow than intended. Changing "applicable" to "appropriate" made the intent more clear to the source testing community.

Another change was made to 340-28-110(c)(C), the reference to the CAA section should be to "section 112(r)."

Action: Commissioner Lorenzen moved approval of: 1) rule amendments as presented in Attachment A of the staff report; 2) corrections to Attachment A as recommended by the Department in the presentation; and 3) findings of need for the temporary rule as presented in Attachment B. Commissioner Castle seconded the motion, and the motion was unanimously approved.

**G. Proposed adoption of temporary rule to amend rules for municipal solid waste landfills to extend the effective date of federal criteria.**

This agenda item proposed temporary rule amendments to revise the Department's solid waste rules to extend the effective dates for federal solid waste criteria for small municipal solid waste landfills (to conform with a federal extension of the effective dates).

The Department recommended the Commission adopt the temporary rule revisions as presented in Attachment A of the staff report and the findings of need for the temporary rule as presented in Attachment B of the staff report.

The Commission briefly discussed the Federal Aviation Administration (FAA) determination about the Pendleton Airport and neighboring landfill. Director Hansen asked that Chuck Donaldson of the Waste Management and Cleanup Division provide Commissioner Lorenzen with an update of the situation.

Action: Commissioner Whipple moved approval of the adoption of the temporary rule as presented in Attachment A and the findings as presented in Attachment B; Commissioner Castle seconded the motion. The motion was unanimously approved.

**H. Adoption of a temporary rule to limit UST (Underground Storage Tank) financial assistance to essential service grants of 75 percent not to exceed \$75,000.**

This agenda item proposed to limit expenditure of lottery funds to essential service grants of 75 percent, not to exceed \$75,000 of UST project work. The temporary rule was necessary to allow the Department to issue approximately 10 essential service grants funded by lottery funds prior to adoption of final rules in January 1994.

The Department recommended the Commission adopt the temporary rule as presented in Attachment A of the staff report. It was also recommended that the Commission adopt the statement of need and findings of fact in Attachment C.

Department staff presented a revised Attachment A to the Commission at the meeting. The revised wording of the temporary rule clarifies that the funding limitations apply to applications approved and confirmed during the biennium rather than applications received.

Action: Commissioner Whipple moved approval of the temporary rule in Attachment A of the staff report as modified, and the findings of need as presented in Attachment C of the staff report; Commissioner Castle seconded the motion. The motion was unanimously approved.

**I. Bond issuance resolution for Series 1994 A, B, C and D pollution control bonds.**

This agenda item concerned authorization to issue and sell not more than \$55 million in pollution control bonds.

The Department recommended the Commission adopt the resolution as presented in Attachment A of the staff report along with the supporting findings presented in the conclusions of the staff report.

Chair Wessinger asked if this was the last of the bonds. Barrett MacDougall of the Department responded no, that the Commission would be receiving several more bond requests.

Action: Commissioner Castle moved approval of the resolution and findings; Commissioner Lorenzen seconded the motion. The motion was unanimously approved.

**J. Pulp mill contested case: status report and proposed order extending the November 30, 1993, deadline for holding a Commission hearing to establish the scope of issues to be addressed upon reconsideration.**

Based on evaluation of the data and information provided to the Department by the pulp mills in progress reports, the Department concluded that if the mills were in compliance with the permit limit for AOX limit, they would be in compliance with the TCDD limit. Therefore, the Department concluded that it would be appropriate to revise the permits to provide that compliance with the AOX limit will be deemed to be in compliance with the TCDD limit. The Department has drafted proposed permits to accomplish this. The proposed permits would replace the permits issued May 26, 1992. The permittees indicated they are willing to accept the permits as rewritten.

The Department recommended: 1) that the Commission concur in the proposed action to issue new permits; and 2) that the Commission enter an order as presented in Attachment A of the staff report to amend the August 10, 1992, order granting petitions for reconsideration to extend the November 30, 1993, deadline for scheduling a Commission hearing ". . . for the purpose of further clarifying the scope of the issues to be reconsidered and determining whether to reopen the evidentiary record" to January 31, 1994.

Director Hansen introduced this agenda item. He said that the work at the mills and the results of chlorine dioxide substitution has allowed the mills to reach required levels. Additionally, he said that the methods chosen have achieved more effective ways of measuring pollutants. However, the mills must contact the Department if any processing changes are made. Director Hansen said the permits will be reissued with changes which reflect the different method of measuring TCDD compliance.

Chair Wessinger asked about the final action of this item. Director Hansen said that upon issuance of revised permits, the mills will need to withdraw their petition for reconsideration and that they will not refile a petition for judicial review in the court of appeals. The matter will then come back to the Commission for dismissal of the contested case.

Mike Downs, Water Quality Division, and Pam Fink, Northwest Region Office, provided information to the Commission about this item. Commissioner Lorenzen asked if the proposal was for periodic verification of the relationship between TCDD and AOX; Mr. Downs indicated yes. Commissioner Lorenzen asked if the state of Washington had made any reductions in this area. Mr. Hansen replied that the methods used by Washington are similar to Oregon's.

Director Hansen advised the Commission that a correction needed to be made in the proposed order in Attachment A. The last sentence on page 1 would be amended to read as follows:

The Department has reviewed information submitted, and prepared proposed permits, that if issued would moot the reconsideration and result in the mills withdrawal of their petition for reconsideration~~and their petition to the Court of appeals for review of TCDD permit limits~~.

The Court of Appeals had already ruled that the order was not final and, therefore, not yet subject to review. As a result, there are no petitions pending before the Court of Appeals at this time.

Action: Commissioner Castle moved to approve the order presented in Attachment A with the amendment noted; Commissioner Whipple seconded the motion. The motion was unanimously approved.

**K. Information item: Willamette River basin water quality study.**

This informational report summarized the findings of Phase I of the Willamette River basin water quality study. Results of the initial modeling efforts were also presented along with invertebrate/vertebrate bioassessment results.

Neil Mullane, Barbara Priest and Bob Baumgartner of the Water Quality Division presented slides and material about the study. They indicated that the long-term objective of the study is to construct a complete data base to enable state, local and federal agencies to cooperatively insure the preservation and beneficial uses of the river. The short-term goal was to provide the Department with knowledge and technical means to carry out its responsibilities under state and federal law which apply to the water quality of the basin.

This item was interrupted for public forum and then continued after public forum.

**PUBLIC FORUM**

**Lauri Aunan, Bruce Gelman, Kip Winans** of the Oregon State Public Interest Research Group (OSPIRG) spoke to the Commission. They also presented the Commission with 9,000 signatures. The petitions ask Director Hansen to reaffirm that burning of plastics is not recycling. Mr. Winans indicated that people he spoke to expressed alarm at the idea of burning plastics as a form of recycling.

**K. Information item: Willamette River basin water quality study. (CONTINUED)**

Mr. Baumgartner said that the main points of the study were:

- Biological life in the mainstream is good in the far upper reaches, fair in the middle reaches and poor below mile 39 (Wilsonville area).
- There are fish skeletal abnormalities extending the length of the river; however, the Department does not know what is the normal rate of abnormalities.
- The EPA modeling procedures for ecological communities appears to work in the river.

- The model for dissolved oxygen and nutrients is basically complete.
- The bacteria results are different than the historic results, and industrial discharges should be monitored for bacteria.
- Non-point sources are major contributors to pollutant loading in the river.
- The toxics model is acceptable to the EPA but needs to be calibrated with additional data.

He concluded by saying the study is important considering the continued population increase and industrial expansion which is occurring in Oregon. Continued funding of this study through the legislature will help the Department in maintaining the existing beneficial uses in the basin. Intergovernmental cooperation is needed to provide accurate information to protect and manage the Willamette Basin.

Commissioner Castle asked if beneficial uses had been measured. Mr. Baumgartner said that they measured fisheries which are considered to be a major beneficial use. Chair Wessinger asked if anything could be done at this point in the study to begin clean up of the basin. Mr. Baumgartner said that follow up on some source issues and long term for use in standards setting would be implemented. Commissioner McMahan asked if the Department had looked at the components of algal communities. Mr. Baumgartner said that the Department had examined rates of production.

Director Hansen indicated the Department wanted to look at the acute toxicity issue. He said that the level of information received was dramatic and action would be required soon. Commissioner Whipple asked what data was used for comparison since no data existed before. Mr. Baumgartner said that previous biological measurements and referenced conditions upstream and geological conditions occurring between two sources were used. He indicated that this type of comparison did not work well for the Willamette River. The study will be completed in two years.

**L. Information item: legislative follow up requirements.**

No oral presentation was made on this item. A memorandum providing brief information on legislative follow up actions had been mailed to the Commission.

**M. Commission member reports.**

Chair Wessinger and Commissioner Castle gave a brief summary of the collaborative process meetings they have been involved in with the City of Portland in regard to the combined sewer overflow (CSO) issue. Director Hansen urged the other Commissioners to attend the meetings. Commissioner Lorenzen asked about the meeting process. Director Hansen replied that the meetings were not a consensus process but were designed to educate the participants about the issues involved. He said the meetings were public and were structured in a public forum arrangement.

Chair Wessinger indicated that after more meetings are held, he would like to have this issue come back to the Commission as a work session item.

**N. Director's report.**

Enforcement: The Department is now developing a criminal enforcement program. One of the first steps was the development of a Memorandum of Agreement with Oregon State Police for stationing a full-time criminal investigator with the DEQ. The EPA has established a second investigator with the Department.

Offset Bank: The Air Quality Division began oversight of a joint contract with the Economic Development Department on development of an Offset Bank, which allows new industries to locate in nonattainment areas without lengthy delays and resulting in better air quality. The contract will result in identification of emission reductions that could be made up front, "borrowed" from the offset bank by new industries, and "repaid" over time.

Greenwood's Last Day: This was the last day Steve Greenwood was the division administrator for Air Quality. John Kowalczyk will be the acting division administrator on November 1 when Steve takes over as Western Region Administrator. A search is underway for a replacement for the Air Quality Division administrator position.



Orphan Site Funding: The Department testified before the Senate Interim Agriculture and Natural Resources Committee regarding the Orphan Site Cleanup funding question. The same presentation will be made to the House Committee on December 10. The Department expects that the two committees will form a joint task force on the issue. The funding question results from the Supreme Court decision on the 1.1 cent gas tax for UST financial assistance. As a result of that decision, the Attorney General issued an opinion that raised concern about the constitutionality of the petroleum load fee. That fee was the source of revenue for one third of the orphan site program. The 1993 legislature provided a one biennium fix but the 1995 legislature must identify an ongoing source of revenue to retire the outstanding debt.

Livable Communities: Dick Nichols will begin work on developing environmental teams for the Livable Communities project. Funding for the project comes from the lottery. The Department expects this to be a high-profile effort and is working closely with the League of Oregon Cities. The Department is looking for interested cities.

Environmental Equity Project: The Department has initiated a project to address the issue of environmental equity. Recent studies in the United States indicate that the burden of adverse environmental impact is not evenly distributed among all populations but often falls disproportionately on minority and low-income groups. In Oregon, the concerns include that minority groups with diets high in fish may be unduly exposed to water pollution.

To better understand this issue, the Department is examining how minorities and low-income groups may be disproportionately affected by environmental hazards. The Department is beginning with a letter to community groups and community leaders to invite them to participate in a telephone survey to help identify potential areas of environmental inequity.

Tillamook Bay National Estuary Project: The start up activities are now in full swing for the Tillamook Bay National Estuary Project. A policy committee has been named and a management committee is now being organized. Marilyn Sigman from the Alaska Department of Fish and Game was named project director and begins in December. Once the director and management committee are in place, an annual work plan will be drafted.

Hearing Authorizations:

- Woodstove Certification Rule Revision: The proposal would revise the procedure for woodstove certification and efficiency testing to accept the federal woodstove certification program as fully equivalent. It would eliminate the Oregon requirement for separate efficiency testing and labeling.
- Fee on waste disposed outside Oregon: The rule changes would implement Senate Bill 1036 requiring that the existing per-ton solid waste disposal fee and Orphan Site Account fee be applied uniformly to Oregon waste even if it is disposed of outside of Oregon. These fees will total 94 cents per ton.

**Other Business:**

Don Sterling, vice chair of the Willamette River Basin Study technical advisory committee, told the Commission that the issue the committee will be examining is how to use the recently obtained data to coordinate land use.

There was no further business, and the meeting was adjourned at 1:30 p.m.