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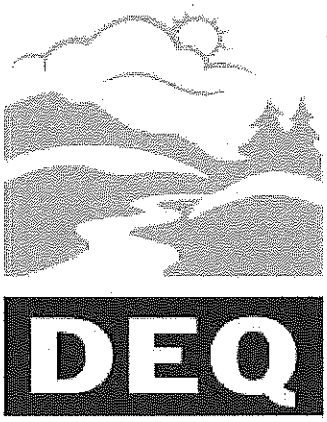
OREGON
ENVIRONMENTAL QUALITY
COMMISSION MEETING
MATERIALS 12/10/1998



State of Oregon
Department of Environmental Quality

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RevisedA G E N D A

ENVIRONMENTAL QUALITY COMMISSION MEETING
December 10-11, 1998

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 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.** on Friday, December 11, 1998 for the General Public Forum if there are people signed up to speak. Public forum regarding oxygenated fuel will be taken after Agenda Item B. 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. The public comment period has already closed for the Rule Adoption items and, in accordance with ORS 183.335(13), no comments can be presented to the Commission on those agenda items. 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.

Thursday, December 10, 1998
Department of Agriculture
635 Capitol St, NE
Salem, OR 97301
Conference Room B019
1:00 – 5:00 pm

Work Session with the Department of Agriculture to Discuss Common Issues
- Healthy Streams Partnership
- Pollution Tax Credits for Farming Equipment
- Legislative Concepts
- Well Head Protection

Friday, December 11, 1998
Department of Environmental Quality
811 SW Sixth
Portland, OR 97204
Conference Room 3A
Beginning at 8:30 am

A. **Informational Item**: Global Warming

B. **Informational Item**: Oxygenated Fuel Program Evaluation in Relation to the Portland Area Carbon Monoxide Maintenance Plan

C. **Approval of Minutes**

D. **Tax Credits**

E. **†Rule Adoption**: Heating Tank Decommissioning Grant Rules

F. **†Rule Adoption**: New Source Review/Prevention of Signification Deterioration (PSD) Rule Amendments and Miscellaneous Revisions Associated with Revocation of the Old PM10 Standard for Current PM10 Nonattainment Areas and Ozone Standards as a Revision to the State Implementation Plan (SIP)

~~G. †Rule Adoption: On site Sewage Disposal Fees~~
No action will be taken on this item at the December meeting

H. **†Rule Adoption**: Fee Schedule for 401 Certifications

~~I. †Temporary Rule Adoption: Equipment Specifications for Self testing Fleets~~
No action will be taken on this item at the December meeting

J. **Commissioner's Reports**

K. **Director's Report**

Notice of Executive Session of the Environmental Quality Commission

The Environmental Quality Commission will hold an executive session at 12:00 noon in room 3B, 811 SW Sixth, Portland, Oregon. The Commission will be consulting with legal counsel regarding *Tidewater Barge Lines v. Dept of Environmental Quality (Case No. A98545)* and *G.A.S.P., et al v. Department of Environmental Quality (Case No. 9708-06159)*. The executive session is to be held pursuant to ORS 192.600 (1)(f) and ORS192.660 (1)(h). The regular meeting of the Environmental Quality Commission will commence at 1:00 pm. Representatives of the media will not be allowed to report on any of the deliberations during the session.

Hearings have already been held on the Rule Adoption items and the public comment period has closed. In accordance with ORS 183.335(13), no comments can be presented by any party to either the Commission or the Department on these items at any time during this meeting.

The Commission will have dinner with the Agricultural Board on December 10, 1998. No Commission business will be discussed.

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 229-5301, 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)229-5301 (voice)/(503)229-6993 (TTY) as soon as possible but at least 48 hours in advance of the meeting.

December 10, 1998

OREGON DEPARTMENT OF JUSTICE

Trial Division
100 Justice Building
Salem, Oregon 97310
Telephone: (503) 378-6313
Fax No: (503) 378-3465

FAX COVER SHEET

Date document sent: 12/9/98 Time Sent: 11:40 AM

To: Sue Oliver

Company:

Business Phone:

FAX PHONE NO: (541) 567-4741

From: Stephen K. Bushong Title: Assitant Attorney General

Re: G.A.S.P. v. Environmental Quality Commission

Case: Multnomah County Circuit Court Case No. 9708-06159

No. of Pages (including cover sheet): 29 Original Mailed: N

Special Instructions:

If you do not receive the number of pages indicated, or if they are not clearly received, please call us immediately at 378-6313. Thank you.

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IN THE CIRCUIT COURT OF THE STATE OF OREGON

IN AND FOR THE COUNTY OF MULTNOMAH

G.A.S.P., SIERRA CLUB, OREGON WILDLIFE FEDERATION, KARYN JONES, SUSAN JONES, HEATHER BILLY, DEBORAH BURNS, JANICE H. LOHMAN, LEANDRA PHILLIPS, MERLE C. JONES, CINDY BEATTY, ANDREA E. STINE, DOROTHY IRISH, MARY BLOOM, ROBERT J. PALZER, JANET NAGY, LaDONNA KING, JOHN SPOMER, CHRISTINE CLARK, STUART DICK, GAIL HORNING, DAVID BURNS, PIUS A. HORNING, KARLA STUCK, and MELANIE BELTANE,

Plaintiffs

vs.

ENVIRONMENTAL QUALITY COMMISSION of the STATE OF OREGON, and DEPARTMENT OF ENVIRONMENTAL QUALITY of the STATE OF OREGON,

Defendants.

Case No. 9708-06159

OPINION AND ORDER on CROSS MOTIONS FOR SUMMARY JUDGMENT

Introduction

This matter comes before me by virtue of a petition for review[1] under ORS 183.484 challenging orders of the Department of Environmental Quality and the Environmental Quality Commission (DEQ/EQC) granting permits to intervenor United States Army (Army) for storage and treatment of hazardous waste and for discharge of air contaminants in connection with the Army's

[1] I am treating the Petition as amended in the manner sought by petitioners' Motion for Leave to Amend and Response to Respondents' ORCP 21 Motions filed May 25, 1998, and entered June 1, 1998.

construction and operation of the Umatilla Chemical Agent Disposal Facility near Hermiston, Oregon.[2] Petitioners[3] are organizations and individuals who contend that the operation of the facility as approved by the respondents would subject them to severe risk of morbidity and mortality, and would otherwise damage their environmental, wildlife, economic, and social interests.[4]

The facility in question is intended to dispose of some 3717 tons of chemical warfare agents which have been stored beginning in 1941 at the Umatilla Army Depot, now known as the Umatilla Chemical Depot. All concerned agree that the stored agents are potentially lethal, and at least respondents and the Army agree that their continued storage is a hazard in itself. The stored materials include nerve agents GB (also known as sarin) and VX, and the blister agent HD known as mustard. The material is stored in various forms, both in bulk and within munitions. The Umatilla facility is one of eight such facilities planned or constructed after proving at a prototype facility on Kalama Island known by the Army as Johnston Atoll. The existing site of major interest to the petitioners is at Tooele, Utah. The Umatilla facility:

"would use five incinerators of four different types housed in one facility to destroy

---

[2] No party disputes jurisdiction, and there is no ultimate contradiction in subjecting the relevant activities of the US Army to judicial review in the courts of Oregon. Congress has seen fit to subject the process of authorizing licensing and permitting chemical weapons destruction to state law, including even laws more stringent than federal law, at least in those states which have an authorized state hazardous waste program. *Compare* 50 USC § 1521(c)(3) *with* 42 USC §6926(b). Accordingly, Oregon statutory and regulatory law apply to the permitting process, including review to the Circuit Court as provided by ORS 183.484.

[3] According to counsel for petitioners, Group Against Social Predation founder Karyn Jones filed articles with the secretary of state under the name G.A.S.P. The secretary of state accepted the filing, "ruled" that acronyms were not acceptable as corporation names, then refused to permit Ms. Jones to remove the periods. Ms. Jones decided refiling was not justified.

[4] Respondents and intervenor conceded petitioners' standing at oral argument, and I concur. Petitioners include some with rights as members of the Umatilla Indian Tribe, although petitioners have not contended that the permits are invalid for any reason peculiar to the "hunting and fishing rights and access to religious sites" they allege, but rather that the hazards they fear damage those rights along with the others identified by the petitioners.

or treat the various components of the chemical weapon stockpile. Two liquid incinerators would be used to destroy the liquid nerve and blister agents that are drained from munitions and bulk containers. After munitions and bulk containers are drained, a deactivation furnace would be used to destroy explosives and propellants, and a metal parts furnace would be used to thermally treat remaining metal parts. A dunnage incinerator would be used to treat packing materials and miscellaneous processing waste that potentially has bee in contact with the chemical agents."

"....Also required for permitting are treatment units in the Brine Reduction Area that de-water the brine from the pollution abatement system. The Brine Reduction Area does not treat chemical agents."

DEQ/EQC's "Invitation to Comment on Findings (ORS 466.055 & ORS 466.060) and Risk Assessment" issued April 5, 1996

Petitioners' challenges to the permits are numerous, but may be summarized as follows: Had they been allowed the contested-case procedure to which they contend they are entitled, petitioners would have been able successfully to challenge the Army's evidence that the facility can and will operate in compliance with the many applicable state and federal protections; the respondents failed to comply with regulatory provisions for public participation; the respondents failed to give adequate consideration to the claims of a former manager of the Tooele site that the US Army is so incapable of this undertaking as to have mirrored management at "Three Mile Island before their nuclear incident or at NASA before the Challenger accident;" the respondents' wrongfully rely upon a critical part of the incinerators — a carbon filter — which has not been tested and will probably not

work in this application; the respondents' failed adequately to consider risks to sensitive populations such as fetuses, children, and the elderly; the respondents gave inadequate consideration to alternate technologies for disposal of the chemical agents; and the facility as permitted includes two incinerators (a dunnage incinerator and a deactivation furnace) and a brine reduction area, when all three have either already been abandoned by the Army or are unlikely of deployment at Umatilla. Petitioners cite a March, 1998, incident at the Tooele facility as an example of the hazards of the technology, the inadequacy of protections against deadly emissions, and the risks of human error: petitioners allege that a contractor knowlingly overfed an incinerator with 80 pounds of sarin agent, that one stack monitor failed to alarm, and that the Army cannot identify what escaped into the atmosphere.

With their post-argument memorandum, petitioners have advised the court of their intention to seek leave to amend their petition to include "their allegation that intervenor Army intentionally withheld or suppressed evidence" in the proceedings before respondents.

Respondents and the Army assert that they were lawfully entitled to avoid contested case proceedings and complied generously with all legal requirements for public participation; that this court may not second-guess the agencies with respect to any conclusion which was supported by the evidence in the record before the agencies at the time of their orders granting the permits; that all conclusions reached by the agencies had adequate support in the record at the time of those conclusions; that evidence offered by the petitioners after the agencies reached those conclusions cannot be considered by this court; and that the agencies complied with all applicable law in granting the permits challenged by the petitioners. Respondents and the Army suggest that petitioners may have further opportunities for input before the agencies in the proceedings contemplated by the

permits themselves, but submit that this court has no choice but to affirm the orders granting the permits.

The Permit Process and Criteria

The Army began the permitting process which led to the orders before me in 1986, pursuant to federal legislation:

> In the Department of Defense Authorization Act of 1986, Pub.L. No. 99-145, Title XIV, Part B, Sec. 1412, 99 Stat. 583 (1985) (codified as amended at 50 USC § 1521), Congress mandated that the stockpile of chemical warfare agent be destroyed by September 30, 1994. See 50 USC § 1521(a). This deadline has since been extended to December 31, 2004. 50 USC § 1521(b)(5) (Supp.1996). Congress directed the Army to accomplish the destruction of this agent in such a manner as to provide (1) maximum protection of the environment, the general public, and the personnel who will be involved in the destruction process; (2) adequate and safe facilities designed solely for the destruction of the chemical agent; and (3) cleanup, dismantling, and disposal of the facilities when the disposal program is complete. 50 USC § 1521(c)(1).
>
> *Chemical Weapons Working Group Inc. v. U.S. Dept. of Army*, 935 F Supp 1206, 1209 (CD Utah 1996)

As petitioners contend and no party disputes, Oregon law incorporates federal statutory and regulatory protections for the operation of a facility designed to treat or dispose hazardous materials,

and adds its own stringent requirements. These provisions require DEQ/EQC to address specific issues deemed relevant to health, safety, and environmental concerns.. *E.g.*, 42 USC §6925,; 40 CFR part 124; 40 CFR §270.32(b); ORS 466.010; 466.055; OAR 340-100-002; OAR ch. 340, div. 120. As petitioners stress, for example, ORS 466.010 declares that it is the purpose of relevant Oregon legislation to "[p]rotect the public health and safety and environment of Oregon to the maximum extent possible" (ORS 466.010(1)(b)(A); 466.055(1)(b)); ORS 466.055 directs that before EQC issues a permit, it must find that the proposed facility "[p]rovides the maximum protection possible to the public health and safety and environment;"[5] that "the proposed facility uses the best available technology for treating or disposing of hazardous waste;"[6] that "operation of the proposed facility would result in a higher level of protection of the public health and safety or environment;"[7] that the proposed operator have adequate financial and technical resources and demonstrated ability and willingness to operate the facility in compliance with safety requirements;[8] that the facility "has no major adverse effect on either: (a) Public health and safety; or (b) Environment of adjacent lands."[9]

Scope and Standard of Review

The bulk of petitioners' challenge depends upon their contention that they are entitled to "put

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[5] ORS 466.055 actually imposes *this* criterion with repect to the "proposed facility *location*." ORS 466.055(1).

[6] ORS 466.055(3) actually provides: "The proposed facility uses the best available technology for treating or disposing of hazardous waste or PCB as determined by the department or the United States Environmental Protection Agency."

[7] ORS 466.055(4)(b)

[8] ORS 466.060(1)

[9] ORS 466.055(5)

witnesses and documents relied upon by the respondents through the appropriate evidentiary paces" and to adduce evidence before this court to persuade me that the respondents reached the wrong conclusion. Respondents and the Army insist that the court cannot consider any evidence not before the agencies as of their last final decision, that the court cannot re-try facts found by the agencies, and that the court's review is substantially limited by the applicable statute:

> ORS 183.484. **Jurisdiction for review of orders other than contested cases; procedure; scope of court authority.**
>
> (1) Jurisdiction for judicial review of orders other than contested cases is conferred upon the Circuit Court for Marion County and upon the circuit court for the county in which the petitioner resides or has a principal business office.
>
> * * * *
>
> (4)(a) The court may affirm, reverse or remand the order. If the court finds that the agency has erroneously interpreted a provision of law and that a correct interpretation compels a particular action, it shall:
>
> (A) Set aside or modify the order; or
>
> (B) Remand the case to the agency for further action under a correct interpretation of the provision of law.
>
> (b) The court shall remand the order to the agency if it finds the agency's exercise of discretion to be:
>
> (A) Outside the range of discretion delegated to the agency by law;

(B) Inconsistent with an agency rule, an officially stated agency position, or a prior agency practice, if the inconsistency is not explained by the agency; or

(C) Otherwise in violation of a constitutional or statutory provision.

(c) The court shall set aside or remand the order if it finds that the order is not supported by substantial evidence in the record. Substantial evidence exists to support a finding of fact when the record, viewed as a whole, would permit a reasonable person to make that finding.

(5) In the case of reversal the court shall make special findings of fact based upon the evidence in the record and conclusions of law indicating clearly all aspects in which the agency's order is erroneous.

Although this statutes speaks expressly to the *standard* of review, it is less clear in defining the scope of "the record" to which the court must refer. With respect to the standard of review, the case law is reasonably settled. To the extent that the Petitioners contend that the respondents have misconstrued and therefore misapplied applicable law, *Springfield Education Assn. v. School Dist.*, 290 Or 217 (1980), prescribes a format.[10] With respect to "inexact terms," whose meaning may be unclear but which embody a complete expression of legislative policy, the court's role is merely to determine whether the agency's interpretation is within the legislative policy which inheres in the

[10] Respondents contend that as construed by subsequent cases, *Springfield* somehow addresses substantial evidence issues so as to support the notion that petitioners are limited to the administrative record. I am not persuaded that the cases cited add anything to that issue: *England v. Thunderbird*, 315 Or 633, 637-38 (1993); *Tee v. Albertsons, Inc.*, 314 Or 633, 637 (1992); *Hadley v. Cody Hindman Logging*, 144 Or App 157, 160 (1996).

statutory term. With respect to "terms of delegation" by which the legislature has left the agency to complete a value judgment which the legislature has only indicated (examples are "fair," "unfair," "undue," "reasonable"), the delegation is to the agency, not to the court, and the court may only consider whether the agency decision is within the range of discretion allowed by the more general policy of the statute. With respect to "exact terms" whose meaning is self-evident (and which the appellate courts apparently assume agencies will not misconstrue), review is simply for compliance[11] or for substantial evidence as defined in the statute — which is essentially another formulation of the notion that issues of construction do not arise with "exact terms," and the remaining issue is whether factual findings have adequate support.

In any event, the test of "substantial evidence" is articulated in the statute itself: "Substantial evidence exists to support a finding of fact when the record, viewed as a whole, would permit a reasonable person to make that finding" — which hasn't stopped appellate courts from expanding on this notion. Thus,

> "If an agency's finding is reasonable, keeping in mind the evidence against the finding as well as the evidence supporting it, there is substantial evidence. . . . The difference between the "any evidence" rule and the substantial evidence test in ORS 183.482(8)(c) will be decisive only when the credible evidence apparently weighs overwhelmingly in favor of one finding and the Board finds the other without giving a persuasive explanation."

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[11] "Exact terms" presumably require no construction, and cannot be misconstrued. This does not mean they cannot be violated. Such a violation would be grounds for a remedy under ORS 183.484(b)(C). The parties seem to agree, as do I, that the terms in question are either terms of delegation or inexact terms and that it makes little difference in this case which they are.

Armstrong v. Asten-Hill, 90 Or App 200, 206 (1988) [addressing identical language in contested-case review statute]

The standard of review, then, can be adequately summarized for this case as follows: to the extent that petitioners contend that the agencies correctly interpreted the law but erred in their factual findings, the issue is whether those findings are reasonable in light of the entire record. To the extent that the petitioners challenge the agencies' interpretation of the applicable regulatory and statutory permitting criteria, the issue is whether the agencies are correct in their interpretation of those criteria. In both cases, I must respect the legislative authority's delegation of responsibility and decision-making to the agencies.[12]

Petitioners in essence argue that in view of their stakes and the nature of the risks involved, they are entitled as a matter of due process to challenge the evidence upon which respondents rely in a judicial procedure involving cross-examination, since respondents did not afford them that opportunity by proceeding in a contested-case mode. I agree with respondents, however, that petitioners are not entitled to a contested case process by notions of due process. That the consequences of a governmental decision may be enormous does not necessarily entitle all who may be affected to participate in a judicial or quasi-judicial process to contest that decision. Our governmental agencies dam rivers, zone neighborhoods, permit dangerous or obnoxious private or

[12] Petitioners challenge the applicability here of the typical explanation of agency expertise, suggesting that the respondents have little or no relevant expertise (and noting that the EQC is formulated for its representative rather than scientific role, *Compare* ORS 486.010 *with* ORS 486B.166). This challenge is unpersuasive, in part because the process involved included and exploited far more scientific expertise than is typical of judicial review, and in part because where to find and defer to expertise is itself a legislative decision. In other words, I have a very limited role in reviewing the decisions of the respondents with respect to the permits in question; I have no role — at least in the absence of a persuasive statutory or constitutional challenge — in reviewing the legislative authority's decision to delegate permitting to the respondents.

public uses of land, and even wage war without entitling all who disagree to be heard in court or a contested case hearing. Petitioners have not alleged any governmental action aimed at them particularly, as opposed to one which affects all citizens similarly situated. They have identified no liberty interest sufficient to entitle them to a contested case hearing. *See, e.g., Schuch v. Board of Parole and Post-Prison Supervision*, 139 Or App 327, *Review denied*, 324 Or 78 (1996); *Graham v. Children's Service Division*, 39 Or App 27, 30, *review denied* 286 Or 521 (1979); *Northwest Environmental Defense Center v. Mid-Willamette Valley Air Pollution Authority*, 16 Or App 638, (1974).

I also agree with the respondents that they were entitled by statute to proceed without contested case incidents. *Compare* ORS 183.310 *with* ORS ORS 466.055 *and* ORS 466.060.

In addition, I concur with respondents' response to petitioners' challenge that respondents violated public participation requirements: Respondents are not *required* to appoint a committee for consideration of an on-site facility such as this one. *Compare* OAR 340-120-0020(3) *with* OAR 340-120-0001(4). There is no requirement to receive public comment on new permit conditions such as that establishing the comprehensive monitoring program. *See* 40 CFR § 124.14(b). Neither ORS 466.050 nor OAR 340-120-0020 require public review and comment in establishing the post-trial burn assessment work plan. Of course, respondents are free to invite and consider public comment and review even on those occasions on which the law does not require them to do so.

It remains to be considered whether petitioners are entitled to *make* the "record" by employing the "evidentiary paces" typical of court proceedings *because* they were not allowed to do so before the agencies. Respondents' authorities actually assume the issue rather than deciding it. *City of Klamath Falls v. Environ. Quality Comm.*, 318 Or 532, 542 n11 (1994) ["We accept

EQC's findings on issues of fact . . . when they are supported by substantial evidence *in the record*"]; *United Citizens v. Oregon Environmental Quality Cmmn*, 104 Or App 51, 54-57 (1990); *review denied* 311 Or 151 (1991). Petitioners argue that their right to "make a record" in circuit court is evidenced by the distinction between judicial review of contested cases in the Court of Appeals and other than contested cases in circuit court (*compare* ORS 183.482(1) *with* ORS 183.484(1)), and in the following authorities: *Burke v. Children's Services Division*, 288 Or 533 (1980); *Fadeley v. Oregon Ethics Cmmn*, 25 Or App 867, 870 (1976); *Stnd Ins v. Olin*, 87 Or App 276, 281, *review denied* 304 Or. 548 (1987); and *Save Our Klamath River v. DEQ (Salt Caves)*, Mult Co 8808-04641.

Burke noted the distinction between review to the Court of Appeals and to the Circuit court in the course of deciding that petitioners successfully attacking an agency rule in a noncontested case on review to the Court of Appeals were not entitled to seek damages. "Review of contested cases is, with limited exceptions, on the record made before the agency. ORS 183.482(5). Review of orders other than in contested cases originates in the circuit court and the record is made there. ORS 183.484." 288 Or at 544. *Fadeley v. Oregon Ethics Cmmn* predates the legislative changes discussed in *Burke*, but does — in the course of dismissing an attempted direct appeal from the Commission from a decision "to do nothing" — distinguish between trial and appellate functions in a manner which petitioners attempt to exploit here:

> [The appellate court is] a record-reviewing court, not a record-making court.[2] Keeping this rationale in mind, it should usually be a simple matter to determine which court can review reviewable agency action. If there is a contested case hearing in which all interested parties have the opportunity to participate, with participation

taking the form of sworn testimony, etc., then there is an administrative record sufficient for direct judicial review in the Court of Appeals. However, an administrative 'record' consisting of anything less is insufficient for judicial review, and appeal must be to the circuit court where a judicial record can be made of the germane facts.

[2] If petitioner's allegations are accurate, and we have no reason to doubt them, it may well be that the Commission proceedings should have been in the form of a contested case hearing — a question we do not reach. But just as this is not a record-making court, it is not a fact-finding court. Petitioner's allegations have to be presented to a record-making and fact-finding court — the circuit court — in the form of sworn testimony, at which time others will have the opportunity to present contrary evidence, if any exists.

Fadeley, supra, 25 Or App at 869

Similarly, petitioners invoke language from *Standard Ins. Co. v. Olin, supra,* in which the Court of Appeals found itself with jurisdiction over only part of an administrative decision. At stake was a bank reorganization in the context of a Banking Division process which provided for a contested case procedure to determine one of four statutory issues — whether the plan is "fair to stockholders, depositors and creditors" — while relegating the remaining three statutory issues to a noncontested case hearing. Confronting the distinction between circuit and appellate court review as between contested and noncontested cases, the Court of Appeals reasoned:

We are not authorized to review an agency decision that is the result of other than a contested case. Only a review in the circuit court can develop a record. The interests

of judicial economy are best served by our reviewing those issues over which we currently have jurisdiction; namely, the issues raised by the fairness order that came out of the contested case hearing. Because the record is yet to be developed on the other three required findings, any challenge to them must be brought in circuit court under the procedures for review of an order in a noncontested case.

87 Or App at 280-81

Finally, in *Save Our Klamath River v. DEQ (Salt Caves)*, Mult Co 8808-04641 (1989), I denied a motion for a protective order (citing the authorities just discussed) on grounds that whether a court is entitled to go beyond the administrative record in an appeal from a noncontested case under ORS 183.484 depends upon the nature of a challenger's contention:

> The extent to which the petitioners can adduce evidence not part of the agency record depends upon the agency role under ORS 468.732 and related provisions of federal law, the extent to which the choices challenged by petitioners . . . are within the range of discretion "committed" to respondent's discretion (*see, e.g.*, Davis, ADMINISTRATIVE LAW TEXT § 28.05 (1972)), and the limits on judicial review of agency discretion under ORS 183.484(4). *See Morgan v. Stimson Lumber co.*, 288 Or 585, 600-02 (1980).
>
> As respondent argues, some of petitioners' challenges involve questions of law or issues properly limited to the record developed before the agency. Whether and to what extent to conduct "scientific analysis" of water quality impacts, and how much credence to give other agency conclusions are undoubtedly largely "committed to agency discretion" in the sense of being beyond judicial second-guessing. But an

agency which is expressly directed to "solicit and consider" the comments of other agencies (ORS 468.732(1)) may conceivably give so little consideration to the views of other agencies as to offend the legislative charge; whether such views were "considered" may or may not be fully apparent from the record. . . .

So, here, the ability of the court to go beyond the record is necessarily dependent upon the nature of the challenges made by the petitioners. Nothing in the authorities invoked by the petitioners is to the contrary. Unavoidably, a record is "made" in the circuit court when review is from a noncontested case under ORS 183.484. When the only argument for reversal or modification is that the agency's "order is not supported by substantial evidence in the record," the "record" in question is the one which comes from the agency. ORS 183.484(4)(c) directs that "Substantial evidence exists to support a finding of fact when the record, viewed as a whole, would permit a reasonable person to make that finding." In the context of the statutory language and settled American administrative law, the "record" which must be viewed as a whole is the *administrative* record. The "record" which is "made" in the circuit court consists of those portions of the administrative record which are received by the court and the pleadings and briefs of the parties. The "record" contemplated as "insufficient for judicial review" in *Fadeley* is one in which a party contends that the agency erred by doing nothing. In a proceeding under ORS 183.490, in which a petitioner contends that an agency "has unlawfully refused to act or make a decision or unreasonably delayed taking action or making a decision," a party may well be permitted and required to offer evidence in circuit court to establish that an agency has unlawfully refused to act or that any delay is "unreasonable." Evidence outside the agency record may also be adduced to show that the agency's order is "[i]nconsistent with an agency rule, an officially stated agency position, or a prior

agency practice" under ORS 183.484(4)(b)(A). Depending on the circumstances, "developing" a record in circuit court may entail evidence extrinsic to the agency record when the petitioner contends that the agency has acted contrary to law within the meaning of ORS 183.484(4)(b)(C). But that a record must be "developed" in circuit court does not imply that petitioners are entitled to add to the administrative record to support their contention that the respondents wrongly decided the questions they addressed, for such contentions are answered by determining whether "the [*administrative*] record, viewed as a whole, would permit a reasonable person" to reach those decisions. The bulk of petitioners' assaults on the respondents' conclusions are therefore unavailing in this forum.

This analysis also disposes of the petitioners' attempts to have this court consider new evidence which was not before the respondents at the time of their orders granting the permits in question. At least to the extent that the relevant issue is whether the orders are "supported by substantial evidence in the record," petitioners may not offer evidence of intervening developments which they contend demonstrates the errors of the respondents' conclusions. On the other hand, those kinds of issues on review which would require or permit the court to take evidence from outside the administrative record might well entail the consideration of "new evidence."[13]

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[13] Similarly, I cannot predict with certainty that new allegations that the Army "suppressed" evidence must be presented to the agencies before petitioners have any remedy in court. Commonly, such allegations amount to a subclass of newly discovered evidence which ought to be presented in the first instance to the original fact-finder. For example, unless petitioners can articulate how it relates to a claim that *respondents* failed to follow applicable law, suggestions that the Army knew but did not inform respondents that it was abandoning one or more of the incinerators planned for the Umatilla facility should first be submitted to the agencies, as should any suggestion that such "suppression" requires reassessment of the Army's "ability and willingness to operate the proposed facility in compliance" with applicable law (ORS 466.060(1)(b); OAR 340-120-0010(2)(g),(h)).

In any event, the Hazardous Waste permit, at page 4, expressly makes any failure by the permittee "to disclose fully relevant facts" or any misrepresentation of relevant facts at any time during the permit issuance process grounds for the termination or modification of the permit.

As respondents note, the petitioners have means by which to present new evidence to the agencies. The permits themselves require trial burns, reports to the agencies, and permit modifications which may well present further opportunities for petitioners to present evidence. And 40 CFR §270.41, adopted by OAR 340-100-002, generally contemplate the agencies' response to newly submitted materials. Although the regulatory language does not expressly contemplate that opponents of a permit will initiate action, suggests wide discretion on the respondents in responding to new evidence, and connotes mere modifications of permits, the language also recognizes that the respondents might *revoke* permits upon consideration of new information from any source — which includes petitioners. Petitioners' suggestion that the Army itself has rejected major components of the incineration system as it was presented to respondents fits comfortably with a contention that refusal even to consider that evidence would itself be reviewable by a court under ORS 183.490. If respondents consider new evidence with or without the intervention of a court under ORS 183.490 and petitioners remain dissatisfied with the resulting order, they would again have the avenue of ORS 183.484 to judicial review. *See Mendieta v. State, By and Through Div. of State Lands,* 148 Or.App. 586 (1997), and authorities stated.[14]

Analysis of Petitioners' Claims

Petitioners' insistence that this court has a wider scope of review than the law allows probably accounts for their failure more clearly to distinguish their substantial evidence challenges from their other challenges. Although petitioners' arguments based on developments which occurred

[14] Petitioners make no contention that would occasion consideration of any remedies which might be available were the remedies described in the text inadequate. Petitioners do not contend that they invoked those remedies or that they would suffer any irreparable harm were they relegated to those remedies now. *See* ORS 183.480(3); *Oregon Health Care Ass'n v. Health Div.*, 148 Or App 568 (1997).

before the administrative record was closed raise extremely serious issues concerning the safety and viability of the Umatilla facility as permitted by the respondents, and although those arguments may well lead to respondents' reconsideration of some of the conclusions they have previously reached, I have concluded that apart from one critical ambiguity, the findings, conclusions, and procedures of the respondents were consistent with applicable law, supported by substantial evidence in the record as of the time that record closed, and within the discretion afforded to the respondents. Because I must remand to the respondents for their resolution of the ambiguity I am otherwise unable to resolve, and because I find the respondents' conclusions otherwise lawful on the record as it existed before the agencies, any occasion for further judicial intervention must await respondents' disposition on remand and reaction to any further requests or demands from the permitee or from the petitioners, or any action the respondents might take on their own motion or as contemplated by the conditions attached to the permits.[15]

Nothing useful would be served, and needless further delay would be occasioned, by reviewing the arguments of the parties concerning all of the many issues contested in the briefs. In general, I am persuaded by the respondents' repeated arguments that the petitioners overstate the legal prerequisites for issuance of these permits; raise contentions which — however persuasive — are insufficient to render respondents' conclusions unlawful or without sufficient evidentiary support in the record; or ineffectively invoke evidence which is extrinsic to that record. I will discuss the questions I found to be close, and in the process give examples typical of respondents' persuasive arguments.

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[15] As noted by respondents' counsel, the permits themselves expressly contemplate modifications later in the process of bringing the facility to an operational state.

— *Best Available Technology, Maximum Possible Protection, Sensitive Populations, and Dioxins:*

A fair synopsis of a portion of petitioners' arguments is that notwithstanding the statutory direction to protect the public health and safety "to the maximum extent possible" (ORS 466.010), to provide the "maximum protection possible to the public health and safety and environment . . . from release of the hazardous waste" in question, and to require that the facility use the "best available technology" (ORS 466.055), the respondents rejected safer and better technologies as unproven while relying upon an equally unproven carbon filter system to conclude that the proposed facility met the "best available technology" requirement, and unlawfully failed sufficiently to consider health risks to sensitive populations, including those risks posed by agent and dioxin emissions.

I agree with respondents that ORS 466.010 in relevant part declares the legislative purpose of the hazardous waste statutes without raising the threshold of permitting above the "no *major* adverse effect" criterion established by ORS 466.055(5). I further agree, and I understand respondents to concede, that the "maximum protection possible" language of ORS 466.055(1) goes only to the proposed facility *location*. Finally, the use of "the best available technology" is a criterion which the facility must meet, but any question as to what entity makes this determination is precluded by the statutory qualification "as determined by the department [respondents] or the United States Environmental Protection Agency."

Although this latter confirmation of delegation to the agency does not insulate respondents' findings as to best available technology from the normal review for abuse of discretion and substantial evidence, it does underscore that the delegation of responsibility for making this determination is to the agencies and not to the courts.

In any event, as petitioners in essence concede, the Army and the respondents have thoroughly exploited their ability to generate "evidence" in support of respondents' conclusions. With this challenge, petitioners have attempted to demonstrate contradictions in the respondents' analysis. For example, petitioners argue that the finding that there would be "no adverse effects" (finding number 43 at 10) is unsupportable in a record which acknowledges that some emissions will occur. But there is no *finding* that there would be "no" adverse effects; finding number 43 is merely a recitation that the "Draft Pre-Trial Burn Risk Assessment" *concluded* that there would be no adverse effects. The actual finding is number 85, and concludes that the facility, "if operated as designed and in accordance with the permit, will not have any major adverse effect on public health and safety, or to [*sic.*] the environment or adjacent lands."[16] The findings at page 26 cite the major bases of the respondents' conclusion, and I concur that they constitute substantial evidence in support of the finding.

Petitioners argue forcefully that components of the proposed facility have not been proven in action, that health risks have been assessed with insufficient concern for extra-sensitive portions of the population and for existing environmental hazards, and that the respondents have given short shrift to viable alternative technologies without affording them responsible consideration. But forceful argument is not enough to alter the proper restraints on judicial review of agency decisions, and the way in which Oregon has chosen to afford its citizens and environment protection "to the maximum extent possible" is by delegating to respondents and trusting to their expertise the difficult

[16] Respondents' finding number 75 A at 19 concedes that there may be "extremely minute air emissions including agent, metals, dioxins or similar chlorinated compounds" but that they will be temporary and well within allowable regulatory limits."

task of evaluating the evidence. Apart from trial burns and other empirical steps mandated by federal law (*e.g.*, 50 USC §1521 (k)), there is no requirement that any particular component be proven before a permit can be issued based on the assumption that that component has a role.[17]

— Carbon filters and ambiguous findings

Petitioners also argue that the findings reflect that respondents' conclusions are critically dependent upon the efficacy of the carbon filter pollution abatement system (PAS), while carbon filters have never been successfully employed in this context. Petitioners submit that the Army had never gotten beyond bench testing PAS for this application, and that nothing in the record supports a conclusion to the contrary.

Respondents point to nothing in the record to support respondents' conclusions concerning PAS other than the written and oral remarks of Professor Iisa. Instead, respondents argue that no one suggested leaving PAS out of the design during the hearings and that respondents relied on PAS only as *extra* protection against emissions. "The fact that the agencies approved (with the support of petitioners) an untested PAS carbon filter system as an *extra* protection against emissions does not make their permitting decisions legally erroneous" (Reply at 12-13).[18]

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[17] The respondents cite evidence of a successful use of a BRA (brine reduction area) at Johnston Atoll in response to petitioners' arguments, otherwise based on evidence developed since the close of the record, that components of the Umatilla facility will not in fact be used by the Army. The evidence cited, however, hardly gives much support for the viability of the BRA as opposed to the experiment's contribution to "lessons learned." *See* AR 2503, p 4, CD 3B, folder 12B. Nonetheless, except for the ambiguity in the findings discussed *infra*, the record when it closed provided substantial evidence to support the necessary findings for this facility which as permitted includes a BRA.

[18] I appreciate respondents' suggestion that petitioners did not *object* to the filters below. I reject any notion that petitioners have somehow waived the right to complain of their doubtful employment in the Umatilla facility. At the time, respondents had not issued their findings which arguably rely upon those filters to reach ultimate conclusions about the safety of the facility; there is no contradiction between agreeing with the employment of a safety measure and contending that the resulting risk is still unacceptable; and the public importance of respondents' role in the permitting process militates against such a formulous barrier to caution.

My study of the record before argument was hampered by the largely defective application of CD-ROM and optical character recognition technology to the preparation of this record,[19] but I have now concluded that the respondents' findings are critically ambiguous with respect to the extent to which respondents relied on operable carbon filters. Here are those findings:

> 75. Applying the BAT[20] criteria adopted by the Commission and based on the administrative record the Army's proposed incineration technology satisfies the requirements for use of best available technology for destruction of agent at Umatilla. With the inclusion of carbon filters the proposed incineration technology will also employ the highest and best practicable emission control technology. The Commission's rationale for this finding includes the following considerations which are supported in detail by the record:
>
> A. The proposed incineration technology is designed to have only minimal emissions of pollutants to the environment and will achieve an extremely high agent destruction removal efficiency (so-called six "9s" efficiency). The incineration technology may result in extremely minute air emissions including agent, metals, dioxins or

[19] In several cases in which it was necessary to scrutinize the record, portions of the relevant testimony or documents were missing or illegible from either the text or graphic version of the record as reproduced on CD-ROMs. I am satisfied that I have received in hard copy all portions of the record necessary for my determination, but urgently hope that whatever technology ultimately is entrusted with the destruction or storage of the materials here at stake is far more satisfactory in its execution than that employed to provide me with the administrative record.

[20] Best available technology.

similar chlorinated compounds. However, in addition to being extremely small, these emissions will be temporary and well within allowable regulatory limits.

B. The proposed incineration technology is designed with a high level of redundancy to minimize risk of discharge from a catastrophic event or mechanical breakdown in operation. Each alternative technology reviewed would involve at least similar and potentially greater operational risks, each alternative has significant technical uncertainties, and none has been subjected to the kind of actual testing and operation the baseline technology has undergone.

C. The proposed incineration technology has been designed and tested for safety in operations at other facilities. Actual experience with internal system release detection and containment exists. Alternative technologies reviewed pose technical safety issues and there is no experience with operations.

D. The proposed incineration technology is currently available and will result in the most rapid destruction of the agent stored at Umatilla, a factor that must be juxtaposed to the risk of continued storage.

Had the findings retained the distinction between "incineration technology" and "emission control technology," I could accept respondents' counsel's suggestion that the respondents were relying on PAS carbon filters only for extra protection, and that the record supports the conclusion

that the system meets all necessary criteria without those filters. But that the record might support such findings is no justification for sustaining them if those were not the findings of the respondents. If respondents actually relied on the inclusion of the PAS carbon filters to reach the critical findings, it is those findings I must assess, not other findings which the respondents could have reached but did not.

Determining what level of risk of what level of dioxin emission is consistent with the statutory criteria for permitting is almost entirely delegated to the respondents. But I cannot tell from the findings whether the respondents were satisfied with the emissions they predicted only because of the PAS carbon filters or even without those filters. And, if as petitioners contend, respondents are indeed relying on the filters, the record will *not* sustain respondents' conclusions.

Respondents' counsel argues that Professor Iisa's testimony was to the effect that emissions would be acceptable without the filters, but that they offer added extra protection. I agree that her testimony would support such a conclusion, but disagree that because of her testimony respondents must have reached that conclusion.

Professor Iisa explained,[21] in essence, that two ways of controlling dioxin emissions are limiting combustion conditions (primarily temperature) and adsorbing[22] dioxin once it is formed (through carbon filters). Referring to Johnston Atoll burn data (without carbon filters), she explained that "[w]ith the carbon filters it is possible to decrease the dioxin emissions by several orders of magnitude. . . .All of the precautions seem adequate to ensure that the dioxin emissions during upset

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[21] Professor Iisa's report is at AR 2058 (CD 4B, folder DEQ1); her testimony is at AR 2172 (CD 3, folder 13B).

[22] "Adsorption" differs from "absorption" in that the former involves the surface of the filtering agent, while the latter involves a process in which one substance permeates another.

conditions do not exceed 30 ng/m³. She noted that hot spots in the filters could lead to fires "and release of the adsorbed compounds from the carbon" and that water condensation "might render the filters unusable," but that the "preventative actions proposed for the carbon filters at the Umatilla facility seem adequate for reducing the risks associated with the use of the carbon filters." In her testimony, Prof. Iisa noted two benefits of carbon filters: reducing the "dioxin emissions which are low even without the carbon filter . . by . . . several orders of magnitude" and "you have this innermost backup carbon filter that's supposed to be able to handle the dioxin emissions in case for a long period of operation . . . if there are some upset conditions . . . dioxin emissions are reduced to an acceptable level." When asked which — the incineration or the abatement — the respondents should look at most closely, she replied she considered the consequences and concluded "I can't say — I can't answer the question — the proper — of which ones are worse."

On this record, it is impossible to conclude with any certainty whether respondents' findings quoted above concerning the "proposed incineration technology" address that technology "with" or without "the inclusion of carbon filters."

Petitioners offer comments from some commissioners[23] supporting their argument that the carbon filters were critical to respondents' findings. These comments cannot resolve the issue any more than floor debate can resolve the issue of legislative intent behind a bill. Respondents' counsel, on the other hand, merely recites that Prof. Iisa's testimony supports a contrary interpretation. As above, while it may support such an interpretation of the findings, it clearly does not compel it, and comfortably supports the interpretation urged by petitioners.

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[23] AR 2351 at 35, 37 (CD 3B, folder 12B)

If respondents are relying on the PAS carbon filters for their conclusions as to the "proposed incineration technology," their reliance is without sufficient support in the record even for the very limited judicial scrutiny I am permitted to bring to this controversy. Although I agree with respondents that nothing requires that every element in the facility be proven before they can effectively predict success, if indeed they are positing their conclusions about health safety and the environment on the inclusion of the PAS carbon filters, nothing to which I have been directed in this record renders the critical assumption that such filters will be successfully employed in the proposed facility reasonable.

Professor Kristina Lisa's testimony and report do not address the issue of whether PAS carbon filters can and will work at the proposed facility. Instead, her analysis, based on the Johnston Atoll burns without carbon filters and the literature she cites (but does not include in the record) is that carbon filters would have the benefits she described if employed in the facility. The only evidence which goes to the question whether they *can and will* be employed is that cited by petitioners, in which the Chemical Agent Demilitarization Workgroup heard this in February of 1996:

> Approximately 19 months ago, the Army initiated three parallel activities wither respect to the PAS Filter System. The three activities are: (1) bench-scale testing of a conceptual design at Maryland; (2) construction of a demo unit at Utah; and (3) integration of the system into all permit applications. Preliminary results of the bench-scale testing show that the conceptual design does not operate at the conditions the Army wants. As a result, the Army has developed an alternative conceptual design. Over the next year, the

> Army plans to evaluate the pros and cons of both the conceptual design and the alternative design. Until one or the other is selected, they have put a hold on the TOCDF demo.
>
> AR 174 at 5 (CD 2B)

Petitioners in essence challenged respondents to point to something else in the record: "Although the permits at issue were not finalized until February 10, 1997, to petitioners' knowledge, no additional information confirming the viability of a PAS carbon filter system was added to the record." (Petitioners' Memorandum at 30). Respondents' response was the argument that the PAS carbon filters were merely added protection, as noted above.

In summary, although the respondents may conclude with sufficient support in this record and based upon the application of their expertise to the technical issues and value judgments inherent in this task that the facility as proposed meets all relevant criteria *without* the PAS carbon filters, I cannot comfortably conclude that they have done so. If as petitioners suggest, they are critically depending upon the assumption that the filters will function as part of the completed facility, that assumption is so lacking in support on this record as to render their resulting critical conclusions concerning the "proposed incineration technology" also unsupportable on this record. I must remand[24] these orders to the respondents to determine what role the PAS carbon filters play in their analysis. On remand, Petitioners may choose to offer new evidence which respondents may consider or decline to consider, subject to further review as discussed at pages 16-17, *supra*.

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[24] The following authorities by analogy support my conclusion that remand is the appropriate response to an ambiguous finding: *Rutz v. Employment Div.*, 83 Or App 609 (1987); *Thomas v. Cascade Union High School Dist. No. 5*, 80 Or App 736 (1986); *Oregon School Activities Ass'n v. Zohner*, 71 Or App 575 (1984); *Michelet, Sowers, Johnson & Co. v. Morgan*, 11 Or App 79 (1972); *Springfield Educ. Ass'n v. Springfield School Dist. No. 19*, 42 Or App 93 (1979), *modified* 290 Or 217 (1980).

Conclusion

The orders subject to review are REMANDED to respondents for further proceedings consistent with this order.

December 6, 1998

Michael H. Marcus, Judge

DEQ Legislative Concepts - November 1998

This is a summary of Department of Environmental Quality legislative concepts. The decision whether to presession file each of these concepts as a bill for the 1999 Oregon Legislature will be made in mid-December. **If you have any questions, please call Lauri Aunan, DEQ, at (503) 229-5327.**

Representational Standing - The Environmental Protection Agency (EPA) has approved Oregon's administration of federal Clean Air Act, Clean Water Act and RCRA (waste) laws. Without this "delegation," the EPA would administer these programs in Oregon. The EPA has indicated that state administration of these programs is at risk because Oregon law does not allow third parties to legally challenge DEQ action on federally delegated permits. DEQ's concept would provide standing to third parties for federally delegated permits, in order for Oregon to continue administering federal permit programs.

Expand Pollution Prevention Tax Credits - The 1995 Legislature approved a pilot program and allocated $5.2 million to encourage certain businesses to install pollution prevention equipment. To date, about 20 businesses have received tax credits. The $5.2 million cap has not been reached; about $3 million remains. DEQ's concept would expand the program, allowing more businesses to receive a tax credit for pollution prevention equipment, including new technologies that (1) eliminate hazardous wastewater discharges through wastewater reuse or recycling; (2) eliminate use of certain hazardous air pollutants; (3) provide space for recycling at new commercial and multi-family buildings; and (4) provide for facility resource efficiency assessments.

Update Pollution Control Tax Credits – Since 1967, this program has provided a tax credit of 50% of the cost of facilities required to comply with environmental laws. For 1997-99, Oregon's estimated biennial tax expenditure is $25 million. DEQ's concept would update the pollution control tax credit by limiting the tax credit to pollution control facilities required to meet compliance standards that are more stringent than federal requirements and required to meet future, new federal requirements more stringent than existing federal requirements.

Tying Fees to the Consumer Price Index – The amount of General Fund DEQ receives has decreased over the years. Currently, General Fund covers about 17% of DEQ's costs. Most of DEQ's environmental work is funded through fees. There is no mechanism for these fees to keep pace with the cost of living. DEQ's concept seeks a way to cover cost increases due to legitimate inflation and roll-up costs by automatically adjusting certain fees based on the Consumer Price Index. This would provide more certainty and stability for DEQ's environmental work and for those who pay the fees. This concept excludes fees that are already indexed, fees that are tied to the actual cost of services, and fees that are expressed as a percentage of some value that will respond to changes in the cost of living.

Convert Petroleum Load Fee to General Fund – The petroleum load fee was paid to the Department of Revenue each time a petroleum tanker truck loaded at an oil terminal. The fee was established by the Oregon Legislature in 1989 to pay for DEQ's hazardous substance and spill response, cleanup of orphan sites and assistance for underground tank owners. The 1993 Legislature restructured the fee to ensure compliance with the State Constitutional provision requiring motor vehicle fuel fees to be used for highway related purposes. DEQ's concept would "clear the books" on previously collected petroleum load fees by converting the moneys to the General Fund, earmarked for DEQ.

Rulemaking Hearings – Under the Oregon Administrative Procedure Act, agencies are required to hold public hearings on rule changes when 10 or more persons request a hearing. The DEQ's enabling statutes require DEQ to hold hearings on every proposed rule change, no matter how minor. DEQ's concept would bring DEQ statutes into line with the Administrative Procedure Act. DEQ would still be required to hold a hearing when 10 or more persons request a hearing.

Clarify Authority to Regulate 4th Priority Agricultural Burning – "4th priority agricultural burning" refers to open agricultural burning in the Willamette Valley, other than field burning. The current statutes are not clear with respect to authority to regulate open agricultural burning other than field burning. DEQ's concept would clarify the authority of DEQ and the Department of Agriculture to regulate open agricultural burning to protect air quality. The Department of Agriculture would have authority during the summer months, during field burning times. DEQ would have authority in the Willamette Valley during the rest of the year. Propane flaming of mint is not affected by this concept.

Implementing Accidental Release Prevention – Under Clean Air Act section 112r, certain facilities must develop and gain approval of plans for action in case of an accidental release of toxic pollutants into the air. DEQ's concept would establish a state program coordinated with the State Fire Marshal, Oregon State Police and Oregon OSHA. The concept would set a fee to cover agencies' costs to develop the program and review and approve Accidental Release Prevention Plans. DEQ is working with an advisory group to determine the viability of accepting delegation of this program, coordination with other state agencies, handling of public information, and fees. If the state does not administer this program the Environmental Protection Agency will administer it.

Homeowners' Heating Oil Tanks Assistance – DEQ receives thousands of requests each year to assist homeowners and prospective buyers of homes who are concerned about potential leaks from heating oil tanks on their property. DEQ's concept is a voluntary program under which DEQ could assist homeowners and homebuyers upon request. If a homeowner voluntarily decides to stop using the heating oil tank, the concept would require the tank to be emptied of oil to prevent future leaks that could contaminate soil and groundwater. An optional fee is provided for DEQ to review this process and provide a written record that it was done.

Underground Tank Leak Prevention – To protect groundwater from pollution, federal law requires underground storage tanks to be upgraded or replaced by December 22, 1998. DEQ's concept would ensure that tanks being taken out of service are properly decommissioned to avoid future leaks that could contaminate soil and groundwater. The concept would also ensure that newly installed tanks operate properly and continue to prevent leaks and spills to soil and groundwater. The annual permit fee that supports DEQ's work drops from $60 to $35 without a legislative change. DEQ's concept would maintain a $60 fee, supporting a minimum level of staffing to protect the investments made over the last decade to protect groundwater from leaking underground tanks.

Keeping Track of Hazardous Waste – To safeguard people's health and the environment, DEQ tracks the management of hazardous waste to ensure it is properly transported and disposed. Statutory authority for DEQ to require documentation of hazardous waste transport is clear for air and water transporters. However, there is no clear statutory authority for DEQ to require documentation from land transporters (e.g., trucks, trains carrying hazardous waste). DEQ's concept would clarify that DEQ has the authority to require land transporters of hazardous waste to provide documentation of the handling and disposal of hazardous waste.

Verifying Solid Waste Tonnage Reporting - Solid waste disposal sites operate under permits issued by DEQ. Fees for the permit program are paid based on tons of solid waste disposed at the sites. The law does not require permit holders to provide financial records to verify tons disposed. As a result, DEQ cannot verify tonnage reported by the permit holders. DEQ's concept would allow DEQ access to certain financial records of solid waste disposal site permit holders to verify accuracy and completeness of solid waste tonnage reporting. Access to records of revenues collected or received would allow DEQ to more efficiently and accurately determine if fee reporting was complete. The concept restricts access to only those records pertinent to tonnage calculations.

Update On-site Sewage Program – Properly installed and maintained septic systems protect people and the environment from exposure to sewage on the ground and in water. DEQ regulates the installation, repair and pumping of septic systems in 14 counties; counties manage the program in 22 counties. DEQ and many of the counties fund the program entirely through fees. DEQ's concept would allow DEQ to enter into agreements with cities as contract agents to administer the program, give local governments flexibility to set fees that vary from fees adopted by the Environmental Quality Commission, address licensing requirements, and allow inspection of pre-1974 septic systems to ensure they still protect land and water from exposure to sewage.

BOARD OF AGRICULTURE MEMBERS

Rod Park was Chair of the board 1995-96. He represents the nursery industry. Mr. Park owns and operates Park's Nursery in Gresham. He was President of Oregon Association of Nurserymen 1990-91, is a member of the Gresham 2020 Committee, Envision Gresham Committee, member of Oregon State University United Oregon Horticulture Board and is on the local Water Quality Management Area Advisory Committee for the Tualatin River watershed. Mr. Park was appointed to the board July 27, 1992.

Margaret Magruder was appointed to the board September 30, 1994 and is currently serving a second four year term. She was elected Chair of the board for 1997-98. She represents the sheep industry and is the owner/operator of Magruder Farms in Clatskanie. She manages all phases of purebred and commercial sheep and has 200 ewe flock. She owns 75 acres and has been in this business since 1978. Margaret has had a lifetime involvement in agriculture on the dikelands of Clatskanie along the Columbia River. She is active in various local, state and national organizations.

George Pugh was appointed to the board July 1, 1996 for a four year term and currently serves as Vice Chair of the board. He represents the grass seed industry. He is a fifth generation farmer in Oregon. He and his wife Cheryl farm with his father on ground purchased by his grandfather in 1910. He has been active in many volunteer activities including Oregon Seed League, Oregon Seed Council, Oregon Ryegrass Growers Seed Commission and many others.

Dewey Rand Jr. was appointed to the board July 1, 1995. He represents the consumer interests and lives in Salem. Until his recent retirement, he was owner of the Capital Press, a regional agricultural weekly newspaper and has been involved for over 40 years with growers, ranchers, agri-business people, commodity groups, etc. He has been involved in many organizations and boards and has received many awards.

Reid Saito was appointed to the board July 1, 1995 and is the current Chair of the board. He is the owner/manager of KLG Farms, Inc. in Nyssa and has been farming for 20 years. He has served in a number of local organizations including Malheur County Onion Growers Assn., Idaho Oregon Onion Export Committee, Food Producers of Eastern Oregon Board of Directors and Malheur County Early Warning Steering Committee.

David Timm was appointed to the board September 30, 1994 and is currently serving his second four year term. He represents the dairy industry. He has a dairy in Eagle Creek and milks more than 300 cows. He is active on the Oregon Dairy Products Commission, Oregon Jersey Coop and Oregon Dairy Farmers Association plus various community activities.

Thayne Dutson Dean of the OSU College of Agricultural Sciences and Bruce Andrews Director of the Oregon Department of Agriculture are ex-officio members who sit on the board.

Marnie Anderson represents the wheat industry and was appointed by the Governor on August 15, 1997. She's been actively involved in agriculture since 1974. She and her husband own 9,000 tillable acres in Ione. They also have a retail wheat seed business. They have commercially produced more than half a dozen different crops besides wheat and barley.

John Borgerson - as Chair of the Soil & Water Commission (he was elected August 19, 1997), Mr. Borgerson is a member of the Board of Agriculture. He is active in various organizations: Long Creek School District Board Chairman, Grant County Planning Commission member and Grant County Soil & Water Director.

Pat Wortman was appointed by the Governor on August 15, 1997 and represents the cattle industry. He resides in Enterprise and has been active in many organizations including Grande Ronde Model Watershed Board of Directors, on the conservation committee for Oregon Water Resources Department from 1991-93, Board of Directors for Association of Oregon Counties, Governor's Eastside Forest Advisory Panel, Governor's Healthy Stream Partnership, Pacific NW Regional Council of President's Council on Sustainable Development and representative of Oregon Eastside Eco-system Coalition of Counties.

Rick Gustafson was appointed by the Governor on August 15, 1997 representing consumer interests. He has managed numerous projects in agriculture that have involved wheat, potatoes, seafood, nursery, beef and dairy. He works for Shiels, Obletz & Johnsen in Portland.

STATE BOARD OF AGRICULTURE
Term Expiration

Term Expires

6/30/99 Reid Saito, Chair
825 Adrian Blvd.
Nyssa OR 97913
Phone: (541) 372-5066
E-Mail: <rsaito@micron.net>

6/30/00 George Pugh, Vice Chair
30415 Green Valley Road
Shedd, Oregon 97377
Phone: (541) 491-3824
E-Mail 102151.743
@compuserve.com
FAX: Same as Phone #

8/14/01 Marnie Anderson
68852 Baker Lane
Ione OR 97843
Phone: (541) 422-7204
FAX: (541) 422-7203
E-Mail: <andseed@eoni.com>
Cell PH: (541) 379-7204

8/18/99 John Borgerson
West Star Route
Long Creek OR 97856
Phone: (541) 421-3508

8/14/01 Rick Gustafson
Shiels Obletz Johnsen
115 NW First Avenue, Suite 200
Portland OR 97209
Phone: (503) 242-0084
FAX: (503) 299-6769

9/29/02 Margaret Magruder
12589 Highway 30
Clatskanie OR 97016
Phone: (503) 728-2945
FAX: (503) 728-9015
E-Mail: Magruder@transport.com

Term Expires

6/30/00 Rod Park
2100 SE 282nd Avenue
Gresham OR 97080
Phone: (503) 663-3715
FAX: (503) 663-2696
E-Mail: parkrd@aol.com

9/29/02 David Timm
23143 SE Timm Lane
Eagle Creek OR 97022
Phone: (503) 637-3272
FAX: Same as Phone #
(Call before Faxing)

8/14/01 Pat Wortman
87586 Hwy 82
Enterprise OR 97828
Phone: (541) 426-3742
Office: (541) 426-4543 ext. 22

Thayne Dutson (ex-officio)
Dean, College of Agricultural
Sciences and Director of
Agricultural Experiment Station
138 Agriculture Hall - OSU
Corvallis OR 97331-2218
Phone: (541) 737-5815
FAX: (541) 737-3178

Lorna Youngs
Acting Director of Agriculture
635 Capitol Street NE
Salem OR 97310-0110
Phone: (503) 986-4552
FAX: (503) 986-4747
E-Mail: lyoungs@oda.state.or.us

Lists 11/98

OREGON TMDLs APPROVED BY USEPA

(as of 12/96)

Waterbody (Basin/Segments)	Parameters	USEPA Approval Date
Bear Creek (Rogue/3)	Ammonia, BOD, Phosphorus	12/8/92
Clear Lake (Mid Coast/1)	Phosphorus	12/8/92
Coast Fork R (Willamette/2)	Ammonia, Phosphorus	5/17/96
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Garrison Lake (South Coast/1)	Phosphorus	12/8/92
Pudding R (Willamette/16)	Ammonia, BOD, Dissolved Oxygen, Suspended Solids	10/18/93
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State of Oregon
Department of Environmental Quality **Memorandum**

Date: December 2, 1998

To: Environmental Quality Commission
From: Langdon Marsh, Director
Subject: Active TMDL Projects

Listed below are the current TMDL projects. In parentheses next to each project is the basin where it is located and the DEQ staff leading the project. Next comes a very brief note about project status.

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TMDL for mainstem awaiting TMDL now being developed for the Upper Klamath Lake Basin. Lost River TMDL proposal rejected by EPA; revisions now on hold pending negotiations with California.

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Lower and Middle Deschutes (Deschutes – Bonnie Lamb)
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Data collection and initial public and interagency process underway.

Attachment A: Oregon TMDLs Approved by USEPA (as of 12/96)
Attachment B: Map of TMDL completion target dates (by sub-basin)

OREGON TMDLs APPROVED BY USEPA

(as of 12/96)

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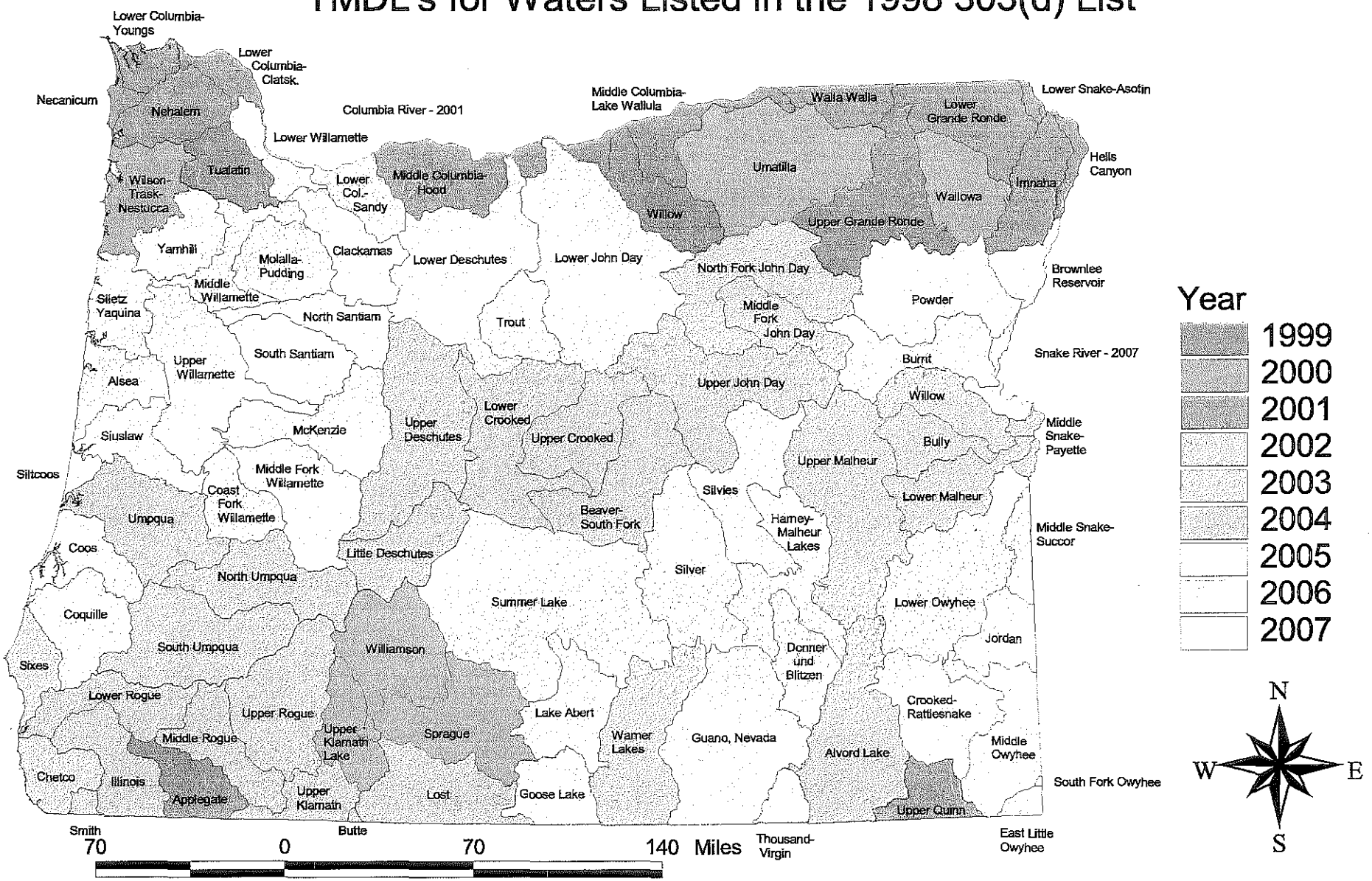
Sub-Basin Target Dates for Completion of TMDL's for Waters Listed in the 1998 303(d) List



DEQ Legislative Concepts - November 1998

This is a summary of Department of Environmental Quality legislative concepts. The decision whether to presession file each of these concepts as a bill for the 1999 Oregon Legislature will be made in mid-December. **If you have any questions, please call Lauri Aunan, DEQ, at (503) 229-5327.**

Representational Standing - The Environmental Protection Agency (EPA) has approved Oregon's administration of federal Clean Air Act, Clean Water Act and RCRA (waste) laws. Without this "delegation," the EPA would administer these programs in Oregon. The EPA has indicated that state administration of these programs is at risk because Oregon law does not allow third parties to legally challenge DEQ action on federally delegated permits. DEQ's concept would provide standing to third parties for federally delegated permits, in order for Oregon to continue administering federal permit programs.

Expand Pollution Prevention Tax Credits - The 1995 Legislature approved a pilot program and allocated $5.2 million to encourage certain businesses to install pollution prevention equipment. To date, about 20 businesses have received tax credits. The $5.2 million cap has not been reached; about $3 million remains. DEQ's concept would expand the program, allowing more businesses to receive a tax credit for pollution prevention equipment, including new technologies that (1) eliminate hazardous wastewater discharges through wastewater reuse or recycling; (2) eliminate use of certain hazardous air pollutants; (3) provide space for recycling at new commercial and multi-family buildings; and (4) provide for facility resource efficiency assessments.

Update Pollution Control Tax Credits – Since 1967, this program has provided a tax credit of 50% of the cost of facilities required to comply with environmental laws. For 1997-99, Oregon's estimated biennial tax expenditure is $25 million. DEQ's concept would update the pollution control tax credit by limiting the tax credit to pollution control facilities required to meet compliance standards that are more stringent than federal requirements and required to meet future, new federal requirements more stringent than existing federal requirements.

Tying Fees to the Consumer Price Index – The amount of General Fund DEQ receives has decreased over the years. Currently, General Fund covers about 17% of DEQ's costs. Most of DEQ's environmental work is funded through fees. There is no mechanism for these fees to keep pace with the cost of living. DEQ's concept seeks a way to cover cost increases due to legitimate inflation and roll-up costs by automatically adjusting certain fees based on the Consumer Price Index. This would provide more certainty and stability for DEQ's environmental work and for those who pay the fees. This concept excludes fees that are already indexed, fees that are tied to the actual cost of services, and fees that are expressed as a percentage of some value that will respond to changes in the cost of living.

Convert Petroleum Load Fee to General Fund – The petroleum load fee was paid to the Department of Revenue each time a petroleum tanker truck loaded at an oil terminal. The fee was established by the Oregon Legislature in 1989 to pay for DEQ's hazardous substance and spill response, cleanup of orphan sites and assistance for underground tank owners. The 1993 Legislature restructured the fee to ensure compliance with the State Constitutional provision requiring motor vehicle fuel fees to be used for highway related purposes. DEQ's concept would "clear the books" on previously collected petroleum load fees by converting the moneys to the General Fund, earmarked for DEQ.

Rulemaking Hearings – Under the Oregon Administrative Procedure Act, agencies are required to hold public hearings on rule changes when 10 or more persons request a hearing. The DEQ's enabling statutes require DEQ to hold hearings on every proposed rule change, no matter how minor. DEQ's concept would bring DEQ statutes into line with the Administrative Procedure Act. DEQ would still be required to hold a hearing when 10 or more persons request a hearing.

Clarify Authority to Regulate 4th Priority Agricultural Burning – "4th priority agricultural burning" refers to open agricultural burning in the Willamette Valley, other than field burning. The current statutes are not clear with respect to authority to regulate open agricultural burning other than field burning. DEQ's concept would clarify the authority of DEQ and the Department of Agriculture to regulate open agricultural burning to protect air quality. The Department of Agriculture would have authority during the summer months, during field burning times. DEQ would have authority in the Willamette Valley during the rest of the year. Propane flaming of mint is not affected by this concept.

Implementing Accidental Release Prevention – Under Clean Air Act section 112r, certain facilities must develop and gain approval of plans for action in case of an accidental release of toxic pollutants into the air. DEQ's concept would establish a state program coordinated with the State Fire Marshal, Oregon State Police and Oregon OSHA. The concept would set a fee to cover agencies' costs to develop the program and review and approve Accidental Release Prevention Plans. DEQ is working with an advisory group to determine the viability of accepting delegation of this program, coordination with other state agencies, handling of public information, and fees. If the state does not administer this program the Environmental Protection Agency will administer it.

Homeowners' Heating Oil Tanks Assistance – DEQ receives thousands of requests each year to assist homeowners and prospective buyers of homes who are concerned about potential leaks from heating oil tanks on their property. DEQ's concept is a voluntary program under which DEQ could assist homeowners and homebuyers upon request. If a homeowner voluntarily decides to stop using the heating oil tank, the concept would require the tank to be emptied of oil to prevent future leaks that could contaminate soil and groundwater. An optional fee is provided for DEQ to review this process and provide a written record that it was done.

Underground Tank Leak Prevention – To protect groundwater from pollution, federal law requires underground storage tanks to be upgraded or replaced by December 22, 1998. DEQ's concept would ensure that tanks being taken out of service are properly decommissioned to avoid future leaks that could contaminate soil and groundwater. The concept would also ensure that newly installed tanks operate properly and continue to prevent leaks and spills to soil and groundwater. The annual permit fee that supports DEQ's work drops from $60 to $35 without a legislative change. DEQ's concept would maintain a $60 fee, supporting a minimum level of staffing to protect the investments made over the last decade to protect groundwater from leaking underground tanks.

Keeping Track of Hazardous Waste – To safeguard people's health and the environment, DEQ tracks the management of hazardous waste to ensure it is properly transported and disposed. Statutory authority for DEQ to require documentation of hazardous waste transport is clear for air and water transporters. However, there is no clear statutory authority for DEQ to require documentation from land transporters (e.g., trucks, trains carrying hazardous waste). DEQ's concept would clarify that DEQ has the authority to require land transporters of hazardous waste to provide documentation of the handling and disposal of hazardous waste.

Verifying Solid Waste Tonnage Reporting - Solid waste disposal sites operate under permits issued by DEQ. Fees for the permit program are paid based on tons of solid waste disposed at the sites. The law does not require permit holders to provide financial records to verify tons disposed. As a result, DEQ cannot verify tonnage reported by the permit holders. DEQ's concept would allow DEQ access to certain financial records of solid waste disposal site permit holders to verify accuracy and completeness of solid waste tonnage reporting. Access to records of revenues collected or received would allow DEQ to more efficiently and accurately determine if fee reporting was complete. The concept restricts access to only those records pertinent to tonnage calculations.

Update On-site Sewage Program – Properly installed and maintained septic systems protect people and the environment from exposure to sewage on the ground and in water. DEQ regulates the installation, repair and pumping of septic systems in 14 counties; counties manage the program in 22 counties. DEQ and many of the counties fund the program entirely through fees. DEQ's concept would allow DEQ to enter into agreements with cities as contract agents to administer the program, give local governments flexibility to set fees that vary from fees adopted by the Environmental Quality Commission, address licensing requirements, and allow inspection of pre-1974 septic systems to ensure they still protect land and water from exposure to sewage.

OREGON'S DRINKING WATER PROTECTION PROGRAM

December 1998 Update

Drinking Water Protection ('98) Advisory Committee Members

Dan Bradley, Committee Chair
Manager, South Fork Water Board
Jeff Bauman, *Public Works Director*
City of Wilsonville
Bill Brookes, *Sr. Hydrologist*
Bureau of Land Management
Merlin Brown, *City Recorder/Manager*
City of Nehalem
Steven Bruce, *Senior Project Manager*
David Newton & Assoc.
Paul Eckley, *Chief Utilities Engineer*
City of Salem
Bob Jones, *Sr. Geologist*
Medford Water Commission
John Ledger, *Env/Natural Resources*
Associated Oregon Industries
Bruce McCammon, *Regional Hydrologist*
US Forest Service
Mike Meszaros, *Env. Health Spec.*
Curry County Env. Health
Regna Merritt, *Program Leader*
Oregon Natural Resources Council
Jennifer Lee, *Groundwater Tech.*
Oregon Assoc of Water Utilities
Tom Penpraze, *Utilities Manager*
Corvallis Public Works
Laurie Power, *Env. Manager*
Eugene Water and Electric
Roger Prowell, *Water Supervisor*
City of Bend
Janet Senior, *Senior Planner*
Portland Water Bureau
Terry Witt, *Ex. Director*
Oregonians for Food and Shelter

Technical Advisory Team

Donn Miller
Water Resources Dept.
Dennis Nelson
Oregon Health Division
Doug White
Dept. Land Conservation & Dept.
Peggy Vogue
Dept. of Agriculture
Terrence Conlon
US Geological Survey
Sheree Stewart
Dept. of Environmental Quality

Program Summary

Many citizens have contributed over the past five years to build a program to protect drinking water in Oregon. The development of a wellhead (groundwater) protection program was originally mandated by the Safe Drinking Water Act Amendments of 1986. Governor Vic Atiyeh later designated the Department of Environmental Quality (DEQ) as the agency responsible for developing a wellhead protection program for Oregon. DEQ first went to the 1993 Legislature with a proposal for a mandatory wellhead protection program and it was rejected. In 1994, DEQ re-designed the approach and used a citizens advisory committee to develop a *voluntary* wellhead protection program. The advisory committee met a total of 14 times over a period of two years to provide strategic input and help guide agency staff to write new rules and an extensive guidance manual. The Environmental Quality Commission adopted rules for the program in January 1996 and the guidance manual was completed in May 1996. The U.S. Environmental Protection Agency (EPA) granted formal approval of the program in September 1996, calling it a "national model for empowering communities to protect sources of drinking water". In August of 1996, new amendments to the Safe Drinking Water Act (SDWA) were signed by President Clinton. *The Amendments provided opportunities to expand the program to incorporate protection of surface water sources in addition to groundwater sources of public water supplies.*

The 1996 SDWA Amendments dedicated new funding for water system improvements to meet health standards and funding for "source water protection" to prevent contamination of public water systems. The Amendments allocated $18,920,500 to Oregon for fiscal year 1997 (starting in March 1998) and approximately $11 million for fiscal year 1998. The entire amount is awarded to the Oregon Health Division (OHD) as the agency in Oregon responsible for implementation and enforcement of federal drinking water quality standards. Approximately 85% of the allocated funds will be direct loans to Oregon communities for funding water system improvements, administered by the Economic Development Department. The remaining 15% includes funding for source water assessments and technical asistance for protecting public water systems. Throughout 1997, OHD's Drinking Water Advisory Committee (DWAC) provided oversight in developing Oregon's source water assessment approach. DEQ and OHD requested set-asides totaling approximately $1.89 million to meet the new requirements for source water assessment and expand our protection efforts. Oregon's plan for addressing the new requirements was submitted to EPA in November of 1997 and the funding was received in August 1998.

DEPARTMENT OF ENVIRONMENTAL QUALITY
811 S.W. SIXTH AVENUE • PORTLAND, OREGON 97204

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Revised Timeline for Expansion of the Program

As mentioned above, the current Oregon drinking water protection program focuses on protecting groundwater sources of drinking water. The program will be expanded to include surface water sources. Here's a timeline for the recent changes and future program expansion:

Sept 96 - EPA approved Oregon's Wellhead Protection Program
Oct. 96 - Oregon began addressing new SDWA requirements
Jan. 97 - OHD's Drinking Water Advisory Committee (DWAC) heard first staff proposals
Jan-May 97 - DWAC discussed new Oregon program for administering federal funds
May 97 - OHD requested new positions at state legislature / approved
June-Aug. 97 - OHD/DEQ refines proposal for the new protection program
Sept/Oct. 97 - DEQ determined staffing needs for expansion
Nov. 97 - DEQ requested new positions from legislative E-Board / approved
Dec 97 - "Intended Use Plan" submitted to EPA, included draft of protection approach
Jan. 98 - DEQ formed a new citizens advisory committee
"Drinking Water Protection Advisory Committee (DWPAC)"
Feb-Dec 98 - DWPAC meetings and recommendations for Source Water Assessment Plan (SWAP)
Sept. 98 – May 99 - recruit and fill new positions at DEQ and OHD
Nov. 98 DEQ submitted draft of SWAP to advisory committee and interested citizens
Feb. 99 – due date for DEQ submittal of Final SWAP to EPA
Oct. 2002 - target date for all Oregon assessments to be completed; final report to EPA

Examples of Existing Drinking Water Protection Efforts

- **Coburg** --- Lane Council of Governments facilitated the process for the City of Coburg to develop a *Drinking Water Protection Plan*; citizens advisory committee met from early 1996 to June 1997; Plan was adopted by the Coburg City Council in July 1997, DEQ granted certification of the Coburg Drinking Water Protection Plan in January 1998...Oregon's first certified Plan !!!!
- **Springfield** --- delineations and inventory were completed in 1996, *Drinking Water Protection Task Force* and Technical Advisory Committee meetings were held August through November 1997, Springfield Drinking Water Protection Plan draft completed in November 1998
- **Junction City** --- Lane Council of Governments facilitated the process for developing a Drinking Water Protection Plan for Junction City ----excellent report(!)---- adopted by City Council in September 1997
- **Powell Valley Road Water District**--- *Drinking Water Protection Plan Committee* met bi-monthly for two years to develop plan with input from District's consultants; Powell Valley Water District hosted community *Clean Water Festival* on September 13, 1997; DEQ certification of the Plan granted in August 1998
- **Hubbard** --- community team met for two years to develop Drinking Water Protection Plan; draft submitted to DEQ in October 1998
- **Medford**--- Big Butte Springs Wellhead Protection area certified by OHD in 1997; commission updating plan with respect to federal partners and will submit revised plan in 1999
- **Boardman**--- delineation completed in 1995; community currently developing approach for plan
- **Otter Rock**, **Fern Valley Estates**, and **Knappa Water Association** are great examples of the work efforts of **Oregon Association of Water Utilities;** they are currently working with over 75 groundwater-based public water systems in providing assistance for developing drinking water protection plans

Other highlights:

-Over 850 Guidance Manuals have been distributed since May 1996
-DEQ estimates that at least 300 public water systems are in some phase of developing drinking water protection plans as of July 1998

Alternative formats of this fact sheet are available. For additional information, to obtain a guidance manual, or to arrange a presentation on drinking water protection, contact Sheree Stewart, Drinking Water Protection Program Coordinator, Oregon DEQ, 503-229-5413 or Dennis Nelson, Groundwater Coordinator, Oregon Health Division, 503-731-4010.

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Department of Environmental Quality **Memorandum**

Date: December 2, 1998

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From: Langdon Marsh, Director
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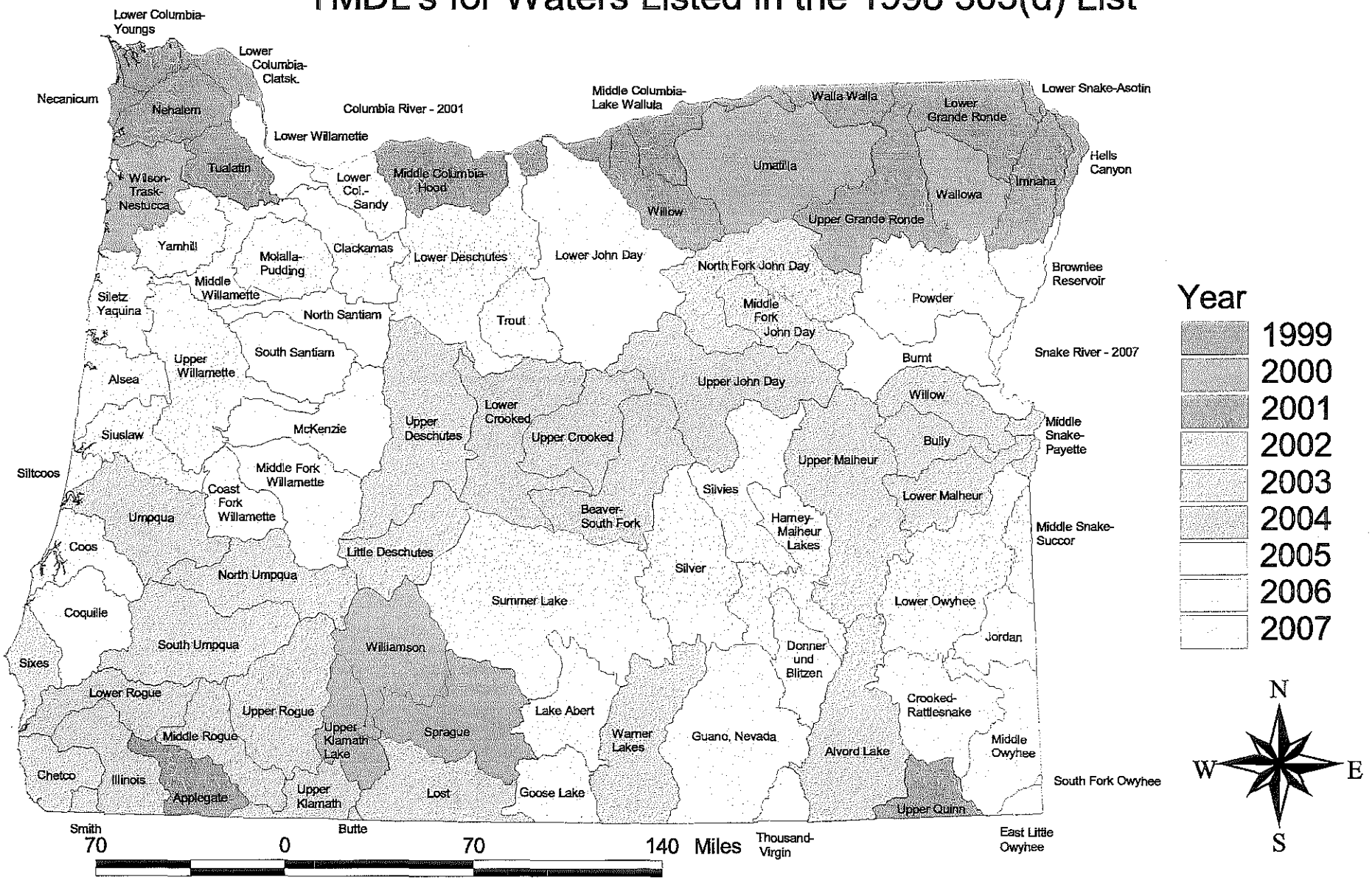
Sub-Basin Target Dates for Completion of TMDL's for Waters Listed in the 1998 303(d) List



Department of Environmental Quality

Pollution Control Tax Credits
Alternatives to Field Burning
Animal Waste Management

December 2, 1998

The Department of Environmental Quality is the administrative agency for the Pollution Control Facility Tax Credit program. The Department of Agriculture performs reviews for all alternatives to field burning tax credits and both departments have performed reviews for animal waste management. This document reports all tax credit activities issued to grass seed growers and farmers involved in animal waste management.

Tax Credit Certificates Issued to Grass Seed Growers and to Farmers Involved in Animal Waste Management

	Sum	Average	Minimum	Maximum	No. of Certificates
Alternatives to Field Burning	$19,836,788	$ 58,689	$ 1,535	$ 1,390,483	338
Animal Waste Management	$ 1,744,228	$ 22,950	$ 2,301	$ 107,374	76
Total	$21,581,016	$ 81,639	$ 3,836	$ 1,497,857	414

Legislative History of ORS 468.150

The legislative history of ORS 468.150 indicates that the legislature intended that a tax credit be available to encourage farmers to use alternatives to field burning by providing a financial benefit to those who purchase "machines" to be used as an alternative method of field sanitation.

> In 1975, Senator Roberts introduced the alternative to field burning tax credit provision into SB 311 because she was concerned about giving farmers an incentive to use alternatives to field burning.[1] Before SB 311 was finally adopted, the House and Senate first removed the provision but then reinstated it, commenting that it was needed "mainly for tax credits for people who purchase the machines." [2]

In 1975, ORS 468.150[3] was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 468 by legislative action. It gave the DEQ and the committee the authority to adopt rules regarding alternative field burning methods that qualify for tax credits.

Field Burning Reduction Plan

In 1991 the legislature enacted a field burning reduction plan, "declar[ing] it to be the policy of the state to reduce the practice of open field burning while developing and providing alternative methods of field sanitation and alternative methods of utilizing and marketing crop residues."[4] This policy ties the reduction of field burning to the encouragement and the development of alternative methods of field sanitation, and straw utilization and disposal. However, the enactment of the field burning reduction plan did not incorporate or address tax credits in ORS 468.150.

The exact reduction in acreage burned is governed by statute, dropping from 180,000 acres in 1991 to 45,212 acres in 1998 and each year thereafter.[5] The EQC has the authority to allow experimental field sanitation of another 1000 acres[6] and, in fact, has allowed Oregon State University to perform experimental field sanitation on an average of 100 acres per year.

The field burning reduction plan does not does not undermine the purpose or the intent of the tax credit for field burning alternatives.

The 1995 legislature amended many of the field burning statutes. At this time, the field-burning program was transferred to the Department of Agriculture[7].

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[1] Minutes to the Senate Committee on Agriculture and Natural Resources, 3/17/75, at 17.
[2] Conference Committee on Field Burning, 6/11/75, at 3.
[3] 1975 c.559 s.15
[4] ORS 468A.555
[5] ORS 468.610(2)
[6] ORS 468A.620
[7] HB 3044 (1995)

Tax Credits for Grass Seed Growers

In 1998, the grass seed industry reached the final level of the1991 legislatively mandated open field burning phase-down. The final limitation allows for 65,000 acres that may be open field burned, although the industry historically has burned only 70-80% of the permitted acreage.

Extensive research during the phase-down period demonstrated that non-thermal management of grass seed production provided a seed yield and stand life that were an acceptable replacement for open field burning of major grass species grown in Oregon. Removal and reduction of residues in place of burning a full straw load is now practiced in all major areas of seed production in the state. Straw removal in one form or another has been the universally adopted alternative to open field burning.

The ongoing transition from open field burning to straw removal has required a tremendous capital investment in equipment and facilities. The Pollution Control Tax Credit Program played an instrumental role in the successful transition by encouraging industry investment in rakes, balers, loaders, flat beds, straw storage buildings, flail choppers and assorted other equipment and facilities for the gathering, densifying, processing, handling, storing, transporting and incorporating of grass straw.

Alternatives to Field Burning
Certificates Issued by Applicant

The following report is a list of all applicants who have received a certificate for alternatives to field burning. The list includes applications that will be presented to the Environmental Quality Commission on December 11, 1998.

The certificate amount represents the certified cost of the facility multiplied by the percentage of the facility cost that is allocable to pollution control. The amount of credit that the certificate holder may claim to offset their tax liability is one-half of the certificate amount.

App. No.	Description of Facility	Certificate Amount	Issued	Location of Facility
4 B Farms, Inc.				
3446	GRASS VACUUM - WATER SYSTEM	$50,035	06/14/1991	15234 BUTSCH LANE NE MT ANGEL
4807	Pole Building structure, 106' W x 133'6" L x 30' H. For straw removal and storage.	$153,830	11/21/1997	7656 Wabash Drive, NE Brooks
	(2 certificates)	**$203,865**		

App. No.	Description of Facility	Certificate Amount	Issued	Location of Facility
Alpha Nursery, Inc.				
4629	STORAGE BUILDING	$61,208	08/23/1996	6765 WINDSOR ISLAND RD N SALEM
Atkinson, Phillip				
4152	BALER/TRACTOR/OTHER EQUIP	$38,502	12/10/1993	42152 FISH HATCHERY DRIVE SCIO
Baker, Richard D.				
4401	JOHN DEERE TRACTOR	$63,840	07/07/1995	32283 DIAMOND HILL DRIVE HARRISBURG
4433	COMBINATION ROLLER-LEVELER	$6,177	08/18/1995	
	(2 certificates)	**$70,017**		
Baker: Richard D./Russell				
5106	A 24x124x270 pole building with painted metal siding for the storage of straw	$151,397	12/11/1998	32283 DIAMOND HILL DRIVE
Bashaw Land & Seed, Inc.				
5016	A Rear's 15' flail chopper.	$11,395	09/18/1998	31731 Bowers Drive HARRISBURG
Berger Brothers				
3155	INSTALL DRAIN TILE TO LAND	$2,993	08/10/1990	34125 RIVERSIDE DRIVE ALBANY
3156	PURCHASE CHOPPER, BALER AND TRACTOR	$16,617	09/21/1990	
3261	TRACTOR	$48,760	12/14/1990	29722 HWY 34 ALBANY
3688	33 TILED ACRES	$15,674	04/23/1992	OAKVILLE RD. ALBANY
3689	14' STEIGER OFFSET DISK	$4,750	03/12/1992	29722 HWY 34 ALBANY
4407	TRACTOR & PLOW	$54,800	08/18/1995	29722 HWY 34 ALBANY
	(6 certificates)	**$143,594**		
Bielenberg, David J.				
2418	STRAW STACKER	$3,500	07/08/1988	16425 HERIGSTAD ROAD NE SILVERTON
Bingman, Elwyn D.				
4485	TANDEM DISK	$17,600	11/17/1995	64088 MCDONALD LANE LA GRANDE
Blue Sky Farms, Inc.				
2451	BUILD A STRAW STORAGE SHED	$25,040	09/21/1990	14703 MANNING ROAD

App. No.	Description of Facility	Certificate Amount	Issued	Location of Facility
				WOODBURN
2459	REAR'S 30' FIELD FLAMER(PROPANE BURNER)	$6,758	07/21/1989	177289 BUTTEVILLE ROAD WOODBURN
2459	REAR'S 30' FIELD FLAMER(PROPANE BURNER)	$6,758	07/21/1989	17728 BUTTEVILLE ROAD N.E. WOODBURN
2477	BUILD STRAW STORAGE SHED	$13,275	09/21/1990	21333 FRENCH PRAIRIE ROAD ST PAUL
2609	JOHN DEERE MODEL 455 COVER CROP DISK	$5,000	07/21/1989	17728 BUTTEVILLE ROAD NE WOODBURN
2858	BUILD A STRAW STORAGE SHED	$30,363	09/21/1990	14703 MANNING ROAD WOODBURN
	(6 certificates)	**$87,194**		
Bodtker, Michael & Lisa				
3314	STORAGE BUILDING FOR STRAW	$79,239	04/26/1991	94367 LOVE LAKE RD JUNCTION CITY
Bowers, Eric & Vicki				
5017	A drainage installation. 43150 feet of 4" drain pipe, 680 feet of 8", & 880 feet of 6" pipe was plowed in the ground on 40' to 60' centers to drain the soil.	$30,852	09/18/1998	.3 miles SE@end of Holmes Rd, Gap Rd Brownsville
Bowers, R. Dean				
4567	POLE CONSTRUCTION BUILDING TO STORE STRAW	$46,545	01/12/1996	22035 COBURG RD HARRISBURG
Bowers, Roy Dean				
4378	JOHN DEERE TRACTOR	$90,000	05/19/1995	22035 COBURG ROAD HARRISBURG
Bowers: Roy A. Bowers &				
3310	STORAGE FACILITY FOR STRAW STORAGE AND EQUIPMENT STORAGE	$67,251	03/11/1991	32200 BOWERS DR. HARRISBURG
3403	BALER & RAKE	$27,207	06/14/1991	22009 COBURG ROAD HARRISBURG
	(2 certificates)	**$94,458**		
Brentano Farms, Inc.				
4209	STORAGE BUILDING	$115,759	03/11/1994	5009 DAVIDSON RD. NE ST PAUL
Briggs Farms, Inc.				
3704	TWO PLOWS	$8,600	04/23/1992	1 MILE NORTH OF COBURG FIRE DEPT. EUGENE

App. No.	Description of Facility	Certificate Amount	Issued	Location of Facility
4649	NEW 130HP MASSEY-FERGUSON TRACTOR	$37,200	11/14/1996	91593 N COBURG RD. EUGENE
	(2 certificates)	**$45,800**		
Briggs, David R				
3742	NEW PLOW	$14,200	04/23/1992	92001 N COBURG RD EUGENE
4672	FIELD SANITATION & STRAW UTIL & DISPOSAL	$64,285	02/28/1997	92001 N COBURG
	(2 certificates)	**$78,485**		
Carl Jr. Farms				
3955	1983 JOHN DEERE TRACTOR	$15,960	03/05/1993	6532 HOWELL PRAIRIE RD. SILVERTON
4604	2 FEWWMAN HYDRAULIC BALERS	$46,077	05/17/1996	6532 HOWELL PRAIRIE RD NE SILVERTON
	(2 certificates)	**$62,037**		
Cersovski Farms				
3171	PURCHASE: TRACTORS, PLOW AND FLAIL CHOPPER	$7,500	09/21/1990	31277 DIAMOND HILL ROAD HARRISBURG
3259	TRACTOR	$74,003	12/14/1990	31277 DIAMOND HILL DRIVE HARRISBURG
4870	One, x 22' x 100' x 180', steel, straw storage building.	$142,041	12/30/1997	Powerline Road & Dale Drive Harrisburg
	(3 certificates)	**$223,544**		
Chapman, Allen D.				
4484	REARS FLAIL CHOPPER	$12,750	08/18/1995	4476 S. TIMBER TRAIL DRIVE WOODBURN
Christensen Farms				
3093	USED BALER & ACCUMULATOR	$33,000	03/02/1990	16201 SW CHRISTENSEN RD. MCMINNVILLE
3308	STORAGE SHED	$32,500	03/11/1991	16201 SW CHRISTENSEN RD. MCMINNVILLE
3410	12' REARS GRASS VAC	$47,341	06/14/1991	16201 SW CHRISTENSEN MCMINNVILLE
3411	JOHN DEERE TRACTOR	$68,000	06/14/1991	16201 SW CHRISTENSEN MCMINNVILLE
3412	JOHN DEERE PLOW	$10,602	06/14/1991	16201 SW CHRISTENSEN MCMINNVILLE

App. No.	Description of Facility	Certificate Amount	Issued	Location of Facility
3780	STORAGE SHED FOR STRAW	$28,039	06/01/1992	17215 SW CHRISTENSEN RD. MCMINNVILLE
	(6 certificates)	**$219,482**		
Christensen, Don & Laura				
4539	Rear's 15' fine flail chopper.	$16,195	12/28/1995	17215 SW CHRISTENSEN RD. MCMINNVILLE
Cruickshank, Kenneth D. &				
5014	A 124' x 180' x 22' pre-engineered all steel straw storage barn and hay squeeze, Hyster Model SC180 Type G Hay Squeeze, serial #SC97808.	$131,339	09/18/1998	5545 Mill Creek Rd. SHERIDAN
Davidson Farms, Inc.				
2449	STRAW STORAGE SHED 70 X 168	$51,211	03/03/1989	4238 DAVIDSON ROAD N.E. ST PAUL
2449	STRAW STORAGE SHED 70 X 168	$51,211	03/03/1989	4238 DAVIDSON ROAD N.E. ST PAUL
3193	PURCHASE REAR'S FIELD FLAMER & VAPORIZER FLAMER UNITS, & FORKLIFT SQUEEZE	$36,620	08/10/1990	18361 RIVER RD. NE ST PAUL
3777	UNDERGROUND TILE ON FARM	$38,916	07/24/1992	18361 RIVER RD NE ST PAUL
	(4 certificates)	**$177,958**		
Davidson Leasing				
1778	STANDARD PROPANE FLAMER INCLUDING 1985 MODEL 30 FOOT WIDE "FIELD FLAMER" AND 500 GALLON PROPANE TANK	$6,775	03/14/1986	18361 RIVER ROAD NE ST PAUL
Davidson, Raymond T.				
2431	STRAW STORAGE SHED (70' X 164' X 21')	$43,853	12/09/1988	4058 DAVIDSON ROAD ST PAUL
3110	PURCHASE A 30 FT. FIELD FLAMER	$7,620	08/10/1990	4058 DAVIDSON ROAD ST PAUL
	(2 certificates)	**$51,473**		
DEWW Farms				
3182	PURCHASE A HESSTON BALER MODEL 560	$15,800	08/10/1990	5017 ST. PAUL HWY. ST PAUL
Ditchen Brothers:DBA Five				
3621	STORAGE SHED FOR THE STORAGE OF STRAW	$85,404	11/08/1991	7705 HAZELGREEN RD. NE SALEM
Ditchen, Todd				
3972	NEW HOLLAND	$79,000	04/23/1993	7705 HAZELGREEN RD. SE

App. No.	Description of Facility	Certificate Amount	Issued	Location of Facility
	BALEWAGON/STACKER			SALEM
Ditchen: Robert A. & Gregg				
3797	STORAGE BUILDING FOR STRAW	$26,664	07/24/1992	6688 JUNIPER ST. NE SALEM
Doerfler, David A.				
3281	JD FLAIL MOWER, KELLO-BUILT DISC, PROPANE FLAMER(2), WATER TANKS(2), HESSTON BALER, WHEEL RAKE, ACCUMULATOR, HAYLOADER, JD LOADER, DUMP RAKE, TRACTOR, JD TRACTOR, FORD TRACTOR, TWO CASE SWATHERS, PETERBUILT TRUCK, FREIGHTLINER TRUCK, JD TR.	$22,300	03/11/1991	13883 DOERFLER RD SE SILVERTON
3282	STRAW DISPOSAL EQUIPMENT	$28,952	03/11/1991	13883 DOERFLER RD. SE SILVERTON
	(2 certificates)	**$51,252**		
Duerst, John				
3283	STRAW DISPOSAL EQUIPMENT	$22,300	03/11/1991	13512 DOERFLER RD SE SILVERTON
3284	STRAW DISPOSAL EQUIPMENT	$28,952	03/11/1991	13512 DOERFLER RD SE SILVERTON
	(2 certificates)	**$51,252**		
Eastman, Burl J.				
3101	UNDERGROUND TUBING FOR EXISTING DITCHES	$24,074	04/17/1990	37309 JEFFERSON SCIO Dr. SCIO
Eder Brothers, Inc				
3132	ROUND BALER	$13,600	03/02/1990	12730 MILLER ROAD NE GERVAIS
3504	HESSTON ROUND BALER	$13,500	07/24/1991	11690 HOOK RD NE MT ANGEL
	(2 certificates)	**$27,100**		
Eder Brothers, Inc.				
3029	PURCHASE A PROPANE BURNER	$7,620	01/19/1990	11690 HOOK ROAD NE MT ANGEL
Eder, Roger				
3492	STORAGE SHED FOR STRAW	$26,620	06/14/1991	9286 WACONDA ROAD NE BROOKS
Eichler Hay Co.				
4207	BUILDINGS AND EQUIPMENT	$244,901	04/22/1994	3085 NE GARDEN AVENUE

App. No.	Description of Facility	Certificate Amount	Issued	Location of Facility
				CORVALLIS
Eichler, Ken W.				
3292	STORAGE SHED FOR STRAW	$68,945	03/11/1991	8250 TUCKER RD. AMITY
Eisiminger, Dale A.				
4309	HEAVY DUTY COVER CROP DISK	$5,200	12/02/1994	PORTABLE IMBLER
Ellis: Merton Gordon				
4249	FLAIL TYPE STRAW CHOPPER	$9,990	08/26/1994	11105 S MT. HOPE ROAD MOLALLA
Estergard: Estergard Farms				
3139	STORAGE SHED	$94,901	03/02/1990	1455 LARKSPUR AVE
3140	TRACTOR	$71,402	03/02/1990	1455 LARKSPUR AVE
3141	RAKE, BULKRAKE, PROPANE FLAMER	$16,549	03/02/1990	1455 LARKSPUR AVE Eugene
3989	WINDROWER, RAKE, FLAIL & LOAF	$102,486	04/23/1993	32022 PRICEBORO DRIVE HARRISBURG
4767	Field Sanitation & Straw Utilization & Disposal	$185,734	08/22/1997	32022 Priceboro Dr. Harrisburg
	(5 certificates)	**$471,072**		
Ferschweiler, Edward				
4081	STORAGE BUILDING FOR STRAW	$46,956	07/23/1993	6070 STATE HWY 219 GERVAIS
Flanagan Farms, Inc.				
4225	DISK, PLOW & TRACTOR	$57,536	06/03/1994	29459 MEADOWVIEW RD. JUNCTION CITY
4486	STORAGE SHED	$192,544	09/29/1995	92154 GREENHILL ROAD JUNCTION CITY
	(2 certificates)	**$250,080**		
Flying W. Ranch, Inc.				
3409	DEUTZ-FAHR ROUND BALER - KELLO BUILT DISK	$50,400	06/14/1991	14905 BUTTEVILLE ROAD NE GERVAIS
Funrue, Sherrill A.				
3491	SIDE DELIVERY WHEEL RAKE, REARS PROPANE FLAMER, HESSTON STACKHAND LOADER TRACTOR	$6,600	06/14/1991	2557 DRIFT CREEK ROAD NE SILVERTON
3500	REARS FIELD FLAMER	$2,616	06/14/1991	2557 DRIFT CREEK RD. NE SILVERTON
	(2 certificates)	**$9,216**		

App. No.	Description of Facility	Certificate Amount	Issued	Location of Facility
G & P Farms				
2895	PURCHASE NEW HOLLAND ROUND BALER	$10,600	08/10/1990	34656 ENOS DRIVE BROWNSVILLE
3181	PURCHASE A TRACTOR	$7,719	12/14/1990	34656 ENOS DRIVE BROWNSVILLE
3309	TRACTOR MOUNTED WHEEL RAKE	$1,535	03/11/1991	34656 ENOS DRIVE BROWNSVILLE
	(3 certificates)	**$19,854**		
Glaser: Ernest Glaser Farm,				
2533	PURCHASE A PROPANE FLAMER	$6,565	03/11/1991	29245 SEVEN MILE LANE SHEDD
3372	PLOW, TRACTOR, CULTIPACTOR, HARROW, DISC, FLAIL CHOPPER, PROPANE FLAMER, BARN RENTAL	$55,739	04/26/1991	29245 SEVEN MILE LANE SHEDD
3373	PLOW, BARN RENTAL, FLAIL CHOP, HARROW, PLOPANE FLAMER CULTIPACTOR	$88,000	04/26/1991	29245 SEVEN MILE LANE SHEDD
	(3 certificates)	**$150,304**		
Glaser: Steve Glaser Farm,				
2473	REARS STACKER |/FINAL REQST FOR CERTF. OF THIS STACKER IS INCLUDED IN FINAL TC APPLICATION #2520	$58,193	01/20/1989	32200 QUAIL RUN TANGENT
2519	STRAW STORAGE SHED|/FINAL REQST FOR CERT. OF THIS SHED IS INCLUDED IN FINAL TC APPL #2520	$58,193	01/20/1989	PLAINVIEW DRIVE PLAINVIEW
2520	PROPANE FLAMER, STACK PAK, HAY RAKE, TRACTOR, STRAW STORAGE SHED	$59,956	01/20/1989	PLAINVIEW DRIVE PLAINVIEW
	(3 certificates)	**$176,342**		
Goffena, Stanley				
3186	PURCHASE A PROPANE BURNER FOR FIELD GRASS BURNING	$6,565	06/14/1991	22775 SW BROADMEAD ROAD AMITY
4224	JOHN DEERE ROUND BALER	$17,000	06/03/1994	22775 SW BROADMEAD ROAD AMITY
4331	WHEEL RAKE	$11,222	03/03/1995	22775 SW BROADWEAD RD AMITY
	(3 certificates)	**$34,787**		

App. No.	Description of Facility	Certificate Amount	Issued	Location of Facility
Golden Valley Farms				
2103	150' X 60' X 20' STORAGE SHED FOR GRASS STRAW	$5,073	03/13/1987	RT.1 BOX 605 (OFF HWY 221) SALEM
2103	150' X 60' X 20' STORAGE SHED FOR GRASS STRAW	$5,073	03/13/1987	RT.1 BOX 605 (OFF HWY 221) SALEM
2233	175' X 60' X 20' STORAGE SHED FOR GRASS STRAW	$6,995	03/13/1987	6866 WACONDA RD BROOKS
3716	VARIOUS FARM EQUIPMENT	$415,382	10/16/1992	11235 PTLD. RD, NE/7385 HOWELL PRAIRIE BROOKS/SILVERTON
3958	STORAGE SHED FOR STRAW	$47,367	09/10/1993	11235 PORTLAND RD/24350 WALLACE RD NE BROOKS/SALEM
4271	EQUIPMENT FOR GRASS SEED FARMING	$95,915	10/21/1994	7385 HOWELL PRAIRIE RD NE SILVERTON
4497	STEEL BUILDING & HAY PRESS	$236,155	09/29/1995	7385 HOWELL PRAIRIE RD NE
4512	TWO FREEMAN BALERS	$58,000	09/29/1995	7385 HOWELL PRAIRIE RD NE
4842	Freeman 370T Baler, engine serial #8417152 & Metallic Building 120' x 200' x 24'.	$190,000	11/21/1997	11235 Portland Road, NE Brooks
	(9 certificates)	**$1,059,959**		
Grimes: Charles V.				
2838	CONSTRUCT STORAGE SHED FOR GRASS SEED STRAW	$17,270	03/02/1990	I-5 E.OF HARRISBURG PRICEBORO & N COBURG HARRISBURG
Herndon, Tom				
3135	PURCHASE TRACTOR	$52,508	03/02/1990	27252 IRISH BEND LOOP HALSEY
3703	FLAIL CHOPPER	$5,000	03/12/1992	29702 NICEWOOD DRIVE HALSEY
	(2 certificates)	**$57,508**		
Hockett Farms, Inc.				
2072	30 FOOT WIDE PROPANE "FIELD FLAMER"	$5,595	03/13/1987	7776 ST. PAUL HWY NE ST PAUL
2072	30 FOOT WIDE PROPANE "FIELD FLAMER"	$5,595	03/13/1987	7776 ST. PAUL HWY NE ST PAUL
2316	66' X 175' STRAW STORAGE SHED	$36,901	03/03/1989	13896 BUTTEVILLE ROAD NE GERVAIS
4105	STORAGE SHED	$47,821	09/10/1993	7776 ST. PAUL HWY, NE

App. No.	Description of Facility	Certificate Amount	Issued	Location of Facility
				ST PAUL
	(4 certificates)	$95,912		
Hoestre, Franklin				
4254	EXCAVATION & CONCRETE WORK FOR UNLOADING AND HANDLING AREAS	$18,106	08/28/1994	4190 VAN WELL ROAD DALLAS
4269	FARM EQUIPMENT FOR FIELD BURNING ALTERNATIVE	$114,236	08/28/1994	11325 EHLEN ROAD AURORA
	(2 certificates)	$132,342		
Hofer, Duane R., Jr.				
3174	PURCHASE BALER	$4,000	08/10/1990	29315 AWBREY LANE EUGENE
Horton: Chris & Joan				
4149	STORAGE SHED/POLE BARN/2 BALERS/TRAILERS/RAKE/ TRACTOR	$53,214	12/10/1993	15150 AIRLIE ROAD Monmouth
Hubbard: C.M. Hubbard Son				
2535	STRAW STORAGE SHED	$51,381	01/20/1989	28919 GRIMSLEY ROAD CORVALIS
Indian Brook, Inc.				
4338	BALER LOADER & SQUEEZE	$173,000	03/03/1995	13512 DOERFLER RD SE SILVERTON
J & J Farming, LLC				
3563	STORAGE SHED FOR STORAGE OF STRAW	$104,935	12/31/1991	33979 HWY. 228 HALSEY
J & S Farms				
4021	STORAGE BUILDING	$81,765	06/10/1993	15561 RIVER ROAD NE ST PAUL
Jenks-Olsen Farms, Inc.				
4930	162'x132'x30' pole construction, grass seed straw storage building	$117,331	06/11/1998	8930 Suver Rd. Monmouth
Jensen, Neils/DBA: Neils				
3432	PLOW	$13,500	06/14/1991	1786 TALBOT RD. JEFFERSON
Jensen, Neils/DBA: Neils				
4234	COVER CROP DISK, BUSHHOG MOWER	$74,370	07/22/1994	1786 TALBOT RD SOUTH JEFFERSON

App. No.	Description of Facility	Certificate Amount	Issued	Location of Facility
Jensen: Carl Jensen Farms				
4615	EAUIPMENT TO USE AS ALTERNATIVE TO FIELD BURNING	$152,836	07/12/1996	6532 HOWELL PRAIRIE RD NE SILVERTON
JSG Inc.				
2802	STORAGE SHED	$259,324	03/02/1990	TANGENT DRIVE TANGENT
2941	PURCHASE A FORD TRACTOR SN C506249	$7,125	03/02/1990	32161 QUAIL RUN TANGENT
2942	PURCHASE JOHN DEERE 4255 TRACTOR WITH DIESEL ENGINE	$37,882	03/02/1990	32161 QUAIL RUN TANGENT
3128	PURCHASE A WHEEL LOADER	$16,965	03/02/1990	32200 QUAIL RUN TANGENT
3145	STRAW REFINING EQUIP	$55,353	08/10/1990	32200 QUAIL RUN TANGENT
3146	REAR'S STAK PAK MODIFICATIONS	$13,251	08/10/1990	32200 QUAIL RUN TANGENT
3636	JOHN DEERE DISK MODEL 555	$27,525	11/08/1991	32200 QUAIL RUN TANGENT
4085	MANUFACTURED SPRAY BUGGY	$73,334	07/23/1993	32200 QUAIL RUN TANGENT
4508	Rear's 12 ft. Grass Vacuum; John Deerre 8870 350 hp tractor; John Deere 2810 moldboard plow	$172,156	09/29/1995	32200 QUAIL RUN TANGENT
	(9 certificates)	**$662,915**		
K Farms Inc.				
3249	PURCHASE REARS FLAME THROWER	$7,849	01/31/1991	32191 CARTNEY DRIVE HARRISBURG
3676	STORAGE SHED FOR STRAW	$84,281	01/23/1992	32191 CARTNEY DRIVE HARRISBURG
	(2 certificates)	**$92,130**		
Kayner, Kurt				
4516	STORAGE BUILDING	$115,752	11/17/1995	3449 HWY 228 HALSEY
Kayner, Kurt & Ellen				
2753	STORAGE SHED	$62,537	01/19/1990	26135 PEORIA ROAD HALSEY
Keeley: Damiel C.				
3423	FIELD DRAIN TILE/JOHN DEERE STRAW CHOPPER/ROTOTILLER	$10,504	06/14/1991	5975 BUYSERIE RD NE

App. No.	Description of Facility	Certificate Amount	Issued	Location of Facility
	AND MASSEY FERGUSON DIESEL TRACTOR			ST PAUL
Keeley: Don & Joann				
4016	STORAGE SHED FOR STRAW	$32,083	06/10/1993	5975 BUYSERIE RD ST PAUL
Keen, Gary				
4367	STORAGE SHED FOR STRAW	$66,208	07/07/1995	34656 ENOS DRIVE BROWNSVILLE
Kelly Farms, Inc.				
4351	STEEL STORAGE STRUCTURE	$78,865	04/14/1995	22111 RIVER ROAD NE ST PAUL
Kennel Farms				
2918	STORAGE SHED FOR STRAW	$82,411	06/14/1991	10705 AIRLIE ROAD Monmouth
KIRK Century Farms Inc.				
3149	PURCHASE TRACTORS, BALER, FLAIL AND STACKWAGON	$46,080	09/21/1990	33214 SEEFELD DRIVE HALSEY'
3262	TRACTOR	$29,624	11/02/1990	33214 SEEFELD DRIVE HALSEY
	(2 certificates)	**$75,704**		
Kirkelie, Maynard				
2121	STORAGE SHED (104' X 144') TO PROVIDE COVER FOR 1152 TONS OF STRAW PER YEAR	$15,843	12/11/1987	30312 WALNUT DRIVE SW ALBANY
KIRSCH Family Farms Inc.				
3498	2 RAKES, 2 BALERS, BALEWAGON, FORKLIFT WITH BALE SQUEEZE, STRAW STORAGE SHED, FLAIL MOWER, RIPPER AND CROP DISC	$175,057	06/14/1991	4350 MAHONEY RD, NE ST PAUL
Kizer Son				
2487	STRAW STORAGE BUILDING (100' X 160' X 20')	$89,661	12/09/1988	24488 ROWLAND ROAD HARRISBURG
Knaupp Seed Farm, Inc.				
3034	PROPANE FLAMER	$7,749	12/01/1989	815 GREENWOOD RD. INDEPENDENCE
Knox Seed, Inc.				
4566	JOHN DEERE TRACTOR	$15,600	02/23/1996	36168 BOHLKEN DRIVE LEBANON
Knox, Marion L.				
3196	PURCHASE TRACTOR, STRAW CHOPPER, PLOW AND HARROW	$12,250	09/21/1990	35136 HIGHWAY 34

App. No.	Description of Facility	Certificate Amount	Issued	Location of Facility
				LEBANON
3256	TRACTOR	$9,200	12/14/1990	35136 HIGHWAY 34 LEBANON
	(2 certificates)	**$21,450**		
Knox: Arnold E. Knox Farm				
3230	PURCHASED A FLAIL CHOPPER	$6,500	01/31/1991	23815 POWERLINE RD. HARRISBURG
Kokkeler, Louis L.				
4343	John Deere Model 8850 4WD 300hp tractor, JD Model 120 20' Flail, IP Model 800 10" bottom moldboard plow	$72,750	03/03/1995	28180 HWY 36 JUNCTION CITY
Kroft, Galen & Vernon				
4451	BOTTOM PLOW & DISK	$51,675	08/18/1995	32191 CARTNEY DRIVE HARRISBURG
Kroft, Leroy & Lowell				
4483	KELLOBILT DISK	$103,401	08/18/1995	24305 POWERLINE RD HARRISBURG
Kroft, Veldon D.				
3904	STORAGE SHED FOR STRAW	$84,153	01/29/1993	25070 PEORIA RD HARRISBURG
Kroft, Vernon				
4453	1995 ROADRUNNER HAY SQUEEZE	$86,599	08/18/1995	32191 CARTNEY DRIVE HARRISBURG
Kropf, Gary J.				
4324	JOHN DEERE TRACTOR M-8770	$72,800	01/20/1995	30859 WYATT DRIVE HARRISBURG
Kropf, Mr.& Mrs. Gary J.				
4206	FLAIL CHOPPER	$10,840	03/11/1994	30659 WYATT DRIVE HARRISBURG
4542	John Deere 3700, high clearance, 9 bottom plow.	$12,796	12/28/1995	30659 WYATT DRIVE HARRISBURG
	(2 certificates)	**$23,636**		
Kropf: Leroy & Lowell				
2803	PROPANE FLAMER	$6,565	07/21/1989	24305 POWERLINE ROAD HARRISBURG
2804	TRACTOR & PLOW	$72,668	07/21/1989	24305 POWERLINE ROAD HARRISBURG
2805	FLAIR CHOPPER	$5,000	07/21/1989	24305 POWERLINE ROAD HARRISBURG

App. No.	Description of Facility	Certificate Amount	Issued	Location of Facility
	(3 certificates)	**$84,233**		
Kropf: Lloyde				
2860	STORAGE SHED FOR STRAW	$55,716	10/20/1989	31121 CARTNEY DRIVE HARRISBURG
Kuschnick Brothers Farms				
3539	FIELD FLAMER	$2,417	09/18/1991	10504 MT. ANGEL GERVAIS RD GERVAIS
L 3 Farms Inc.				
3673	STORAGE SHED FOR THE STORAGE OF STRAW	$72,860	01/23/1992	31555 FAYETTEVILLE DRIVE SHEDD
Langdon & Sons, Inc.				
3542	TRACTOR/LOADER/BALE MOVER/NEW HOLLAND BALER/ROTOTILLER AND RAKE	$63,547	09/18/1991	30600 DIAMOND HILLS DRIVE HARRISBURG
Langdon, George E.				
4877	Building to be used to store straw until sold in winter. This facility is 75' x 100' x 18' with concreat floor on Tax Lot 03400.	$153,060	12/30/1997	30603 Diamond Hill Drive HARRISBURG
Langmack Seed Co., Inc.				
3195	PURCHASE TRACTOR AND STRAW CHOPPER	$10,065	09/21/1990	35944 GORE DRIVE LEBANON
3257	TRACTOR	$14,310	12/14/1990	35944 GORE DRIVE LEBANON
	(2 certificates)	**$24,375**		
Leavy Farms Inc.				
3765	DRAINAGE TILE INSTALLED	$28,409	07/24/1992	22675 BUTTEVILLE RD NE AURORA
Leppin, Garold H.				
3362	STORAGE BLDNG. FOR STRAW. BALEWAGON/1986 NEW HOLLAND MODEL 1075	$52,759	04/26/1991	24620 SE OLD BETHEL RD. AMITY
Lewis, Monte J.				
3253	HESSTON 60 B STACKHAND, SERIAL NO. 702	$18,000	01/31/1991	31555 FAYETTEVILLE DRIVE SHEDD
3254	STRAW SHED FOR STORAGE	$61,925	01/31/1991	31555 FAYETTEVILLE DRIVE SHEDD
	(2 certificates)	**$79,925**		
Lindsay Brothers				
2274	106' X 138' X 20' THREE SIDED	$42,260	03/03/1989	30545 LINDSAY DRIVE

App. No.	Description of Facility	Certificate Amount	Issued	Location of Facility
	POLE BUILDING FOR STRAW STORAGE			SHEDD
Looney Farms Inc.				
2859	STORAGE SHED FOR STRAW	$58,738	12/01/1989	31499 KENDALL LOOP SHEDD
MacPherson, Robert D.				
3514	PATTERN DRAINAGE ON 60' SPACING	$33,308	07/24/1992	31580 OAKVILLE ROAD SHEDD
3515	POLE BUILDING	$29,755	07/24/1991	31580 OAKVILLE ROAD SHEDD
4482	DRAINAGE TILE	$120,498	11/17/1995	31580 OAKVILLE ROAD SHEDD
	(3 certificates)	**$183,561**		
Malpass Farms				
2797	STORAGE SHED FOR STRAW	$71,745	09/01/1989	21320 NORTH COBURG ROAD HARRISBURG
Marguth: Jerry & Betty				
5112	A storage shed for straw 100' x 125' x 22'	$89,834	12/11/1998	
Marx, Carol				
5012	132' x 144'x 22' pole construction, grass storage building.	$131,499	09/18/1998	4955 Oak Grove Rd. RICKREAL
McKay Farms Inc.				
3497	STORAGE SHED FOR STRAW	$122,177	04/23/1992	19172 French Prairie Road NE ST PAUL
McKay: Dean McKay Farms,				
4890	New Farm equipment, 8870 John Deere Tractor, John Deere 995 HC 8 Bottom Plow, 4430 Ford Tractor, Two 515 Holland Baler, 14' rear Flail & 15' rear Flail.	$249,836	01/09/1998	19224 French Prairie Road NE ST PAUL
McKay: Mark McKay Farms,				
4891	New Farm Equipment, 8400 John Deere Tractor, John Deere Chisel Plow, 4430 Ford Tractor, Allen Rakes, 585 Holland Baler, 1095 Holland stacker	$248,496	01/09/1998	19224 French Prairie Road NE ST PAUL
McKee Farms				
4388	SELF PROPELLED DEISEL STACKWAGON	$23,850	07/07/1995	22450 SW MCKEE ROAD AMITY
4596	370 FREEMAN BALER	$20,424	05/17/1996	22450 SW MCKEE ROAD AMITY
5098	A 120' x 80' x 20' storage barn for	$45,563	12/11/1998	

App. No.	Description of Facility	Certificate Amount	Issued	Location of Facility
	grass seed straw			
	(3 certificates)	**$89,837**		
McKee, Robert				
4332	ROTARY CHOPPER	$13,966	03/03/1995	24903 SW PERRYDALE AMITY
McLagan Farms, Inc.				
2661	2 STRAW STORAGE BUILDINGS	$120,779	04/14/1989	2 1/2 MILES NW OF SHEDD ON OHLING LANE SHEDD
2914	STORAGE SHED FOR STRAW	$76,804	10/20/1989	2-1/2 MILES NW OF SHEDD ON OHLING LANE SHEDD
	(2 certificates)	**$197,583**		
Miller, Martin A.				
3183	PURCHASED A REAR'S PROPANE BURNER	$2,416	08/10/1990	8626 WABASH DRIVE NE BROOKS
Miller, Miller				
3966	FLAIL CHOPPER	$19,661	04/23/1993	34465 MIDWAY DRIVE SE ALBANY
Miller, Valentine				
2297	STORAGE SHED FOR STRAW	$5,184	07/08/1988	8626 WABASH DR.,N.E. BROOKS
Miller, Valentine & Delores				
4481	STORAGE SHED FOR STRAW	$18,244	11/17/1995	8626 WABASH DRIVE NE SALEM
Miller: Scott Miller, Inc.				
3144	PURCHASE REAR'S 30' PROPANE BURNER	$2,250	08/10/1990	14593 FRENCH PRAIRE ROAD WOODBURN
3851	STORAGE SHED FOR STRAW	$36,397	09/10/1993	4657 MARTJALER ROAD NE WOODBURN
	(2 certificates)	**$38,647**		
Montgomery: Clyde				
2961	CONSTRUCT 106 X 144 STRAW STORAGE BUILDING	$42,000	08/10/1990	32410 HIGHWAY 99E TANGENT
3311	STORAGE FACILITY FOR STRAW	$56,050	03/11/1991	32410 HIGHWAY 99E TANGENT
3405	STRAW VACUUM	$26,307	06/14/1991	3246 WILLETTA PLACE SW

App. No.	Description of Facility	Certificate Amount	Issued	Location of Facility
				ALBANY
3406	STRAW VACUUM	$24,200	06/14/1991	3246 WILLETTA PLACE SW ALBANY
	(4 certificates)	**$148,557**		
Mt. Harris Farms				
4625	STORAGE BUILDING	$12,250	08/23/1996	65883 MCKENNON LANE IMBLER
Mt. Jefferson Farms				
1649	UNDERGROUND TILE DRAINAGE INSTALLATION TO IMPROVE SOIL DRAINAGE CHARACTERISTICS TO ALLOW ALTERNATIVE CROPPING AND ELIMINATE ANNUAL OPEN BURNING.	$35,570	01/06/1984	JEFFERSON-SCIO DRIVE SHELBURN
1650	UNDERGROUND TILE DRAINAGE INSTALLATION TO IMPROVE SOIL DRAINAGE CHARACTERISTICS TO ALLOW ALTERNATIVE CROPPING AND ELIMINATE ANNUAL OPEN BURNING.	$19,739	01/06/1984	JEFFERSON-SCIO DRIVE SHELBURN
	(2 certificates)	**$55,309**		
Mullen Farms, Inc.				
2448	STRAW STORAGE SHED (70' X 168' X 22')	$53,032	12/09/1988	21612 RIVER ROAD N.E. ST PAUL
4253	100 HP JOHN DEERE 7400 SERIES TRACTOR WITH LOADER	$59,800	08/26/1994	17792 RIVER ROAD, NE ST PAUL
4405	PURCHASE EQUIP FOR STRAW REMOVAL	$120,541	08/18/1995	17792 RIVER ROAD ST PAUL
4955	New Holland bale wagon, model #1095, New Holland baler, model #515, and Allen hay rake, model #8827.	$134,600	06/11/1998	17792 River Road, NE St. Paul
	(4 certificates)	**$367,973**		
Neher, Larry & Mary Lou				
4576	STORAGE SHED FOR STORAGE OF STRAW	$58,728	02/23/1996	28485 BROWNSVILLE ROAD BROWNSVILLE
4918	Drain Tile: 860 feet of 8" corrugated HDPE, 1500 feet of 6" corrugated HDPE, 29,850 feet of 4" corrugated HDPE, fittings & outlets.	$26,834	09/18/1998	28485 Brownsville Road BROWNSVILLE
	(2 certificates)	**$85,562**		
Neher: Larry Neher, Inc.				
2828	STORAGE SHED FOR STRAW	$33,381	10/20/1989	28485 BROWNSVILLE ROAD

App. No.	Description of Facility	Certificate Amount	Issued	Location of Facility
				BROWNSVILLE
4919	Rears 15' Pakchopper	$12,051	06/11/1998	28485 Brownsville Road Brownsville
	(2 certificates)	**$45,432**		
Neuschwander, Carl				
4889	A 24' x 124' x 180' pole constructed Straw Storage Shed.	$119,079	12/30/1997	32276 Diamond Hill Drive Harrisburg
Neuschwander, Lyle D.				
3225	PURCHASE JOHN DEERE FLAIL CHOPPER AND MELBOARD PLOW.	$16,200	09/21/1990	26262 POWERLINE ROAD HALSEY
4318	PURCHASED TRACTOR	$30,916	12/02/1994	26262 POWERLINE ROAD HALSEY
5010	John Deere 9400 225 hp tractor.	$54,114	09/18/1998	26262 Powerline Rd Halsey
	(3 certificates)	**$101,231**		
Neuschwander, Robert E.				
4369	ARTSWAY LANDLEVELER	$7,515	05/19/1995	31983 HARRIS DR. HARRISBURG
Neuschwander, Roger F.				
3189	PURCHASE JOHN DEERE TRACTOR AND PLOW	$5,700	09/21/1990	31983 HARRIS DRIVE HARRISBURG
3258	TRACTOR	$5,490	12/14/1990	31983 HARRIS DRIVE HARRISBURG
4053	FLAILMOWER	$3,200	07/23/1993	31983 HARRIS DRIVE HARRISBURG
4695	FIELD SANITATION & STRAW UTILIZATION & DISPOSAL	$54,616	12/31/1996	31983 HARRIS DRIVE HARRISBURG
	(4 certificates)	**$69,006**		
Nixon Farms Inc.				
3247	PURCHASE PROPANE FLAMER	$7,076	04/26/1991	96313 HULBERT ROAD JUNCTION CITY
Nulf: Douglas K.				
2739	PURCHASE A STRAW BALER	$33,362	09/21/1990	25946 FERGUSON ROAD JUNCTION CITY
Nyquist Country Farms				
3541	NEW HOLLAND BALER	$24,170	09/18/1991	20265 BUTTEVILLE RD, NE HUBBARD

App. No.	Description of Facility	Certificate Amount	Issued	Location of Facility
Oak Creek Farms, Inc.				
2671	3 SIDED POLE SHED	$64,678	01/31/1991	31310 PEORIA ROAD SHEDD ,
3035	HESSTON LOAFER MODEL 60A	$29,105	06/14/1991	31310 PEORIA RD. SHEDD
3136	STORAGE SHED FOR STRAW	$41,317	03/02/1990	31310 PEORIA ROAD SHEDD
3137	STORAGE SHED FOR STRAW	$66,641	03/02/1990	31310 PEORIA ROAD SHEDD
3169	PURCHASE: TRACTOR, PLOW AND FLAIL STRAW CHOPPER	$30,401	09/21/1990	31014 HWY 34, SE TANGENT
3260	TRACTOR	$32,778	12/14/1990	31014 SEVEN MILE LANE TANGENT
3300	FORD TRACTOR TW-35	$50,244	03/11/1991	31166 SEVEN MILE LANE TANGENT
3414	HESSTON LOAFER MODEL 60A	$35,438	06/14/1991	31310 PEORIA ROAD SHEDD
	(8 certificates)	**$350,602**		
OR/PAC Feed & Forage, LTD				
3910	4 STORAGE BUILDINGS	$233,174	04/23/1993	91736 GREENHILL ROAD JUNCTION CITY
3970	1992 ROADRUNNER	$81,704	04/23/1993	91736 GREENHILL ROAD JUNCTION CITY
3973	2 STORAGE BUILDINGS	$232,136	04/23/1993	91736 GREENHILL ROAD JUNCTION CITY
	(3 certificates)	**$547,014**		
Oregon Rootstock & Tree				
3448	505 NEW HOLLAND BALER/NEW HOLLAND BALE WAGON/CATERPILLAR LOADER-SQUEEZE	$160,245	06/14/1991	10906 MONITOR-MCKEE RD, WOODBURN
3736	STORAGE BUILDING FOR STRAW STORAGE	$53,597	04/23/1992	7727 54TH AVENUE NE SALEM
4597	STORAGE SHED	$148,842	07/12/1996	10906 MONITOR MCKEE RD, WOODBURN
	(3 certificates)	**$362,684**		

App. No.	Description of Facility	Certificate Amount	Issued	Location of Facility
P. M. Ranch, Inc.				
3289	60' X 168' STORAGE SHED	$48,504	03/11/1991	4689 MAHONY RD. GERVAIS
Phalan, Gerald E.				
2921	PURCHASE BALER AND ROADRUNNER WITH HAY CLAMPS	$76,351	08/10/1990	1487 15TH AVE S.E., #D ALBANY
3508	1990 ALLEN 8827 RAKE	$3,231	04/23/1993	33973 LOONEY LANE TANGENT
3509	1990 SUNNEY D ROADRUNNER	$65,492	04/23/1993	33973 LOONEY LANE TANGENT
3510	FREEMAN 36530	$22,915	04/23/1993	33973 LOONEY LANE TANGENT
3525	1991 ROADRUNNER	$78,349	04/23/1993	33973 LOONEY LANE TANGENT
3953	1992 ROADRUNNER	$92,620	04/23/1993	33973 LOONEY LANE TANGENT
	(6 certificates)	**$338,959**		
Phalen, Rodney G.				
2920	PURCHASE A FREEMAN BALER	$57,053	08/10/1990	1800 CASA VILLA ALBANY
Phelan, Gerald E.				
4449	ROADRUNNER HAY SQUEEZE & FREEMAN BALER	$18,983	08/18/1995	33973 LOONEY LANE TANGENT
PIMM Farms Inc.				
3297	FORD TRACTOR & BEARCAT II STEIGER TRACTOR	$27,000	03/11/1991	29415 BLUEBERRY RD HALSEY
3298	3 NEW HOLLAND MODEL 858 BALERS, 1 RUGBY MODEL 70 BALER	$36,754	03/11/1991	29415 BLUEBERRY RD. HALSEY
	(2 certificates)	**$63,754**		
Pohlschneider Farms, Inc.				
1609	11,060 SQ. FT., 24 FT. HIGH STRAW STORAGE BUILDING (POLE BUILDING) WITH FULL ROOF AND ENCLOSED ON THREE SIDES.	$50,269	05/20/1983	17904 FRENCH PRARIE ROAD ST PAUL
3512	REARS 12' GRASSVAC	$50,035	07/24/1991	17904 FRENCH PRAIRIE RD NE

App. No.	Description of Facility	Certificate Amount	Issued	Location of Facility
				ST PAUL
4251	JD 4760 TRACTOR	$74,582	08/26/1994	17904 FRENCH PRAIRIE RD. NE
				ST PAUL
	(3 certificates)	**$174,886**		
Pohlschneider: J. & K.				
3721	STORAGE SHED FOR STRAW	$79,277	03/12/1992	17673 FRENCH PRAIRIE ROAD
				WOODBURN
Prince E. Seeds Inc.				
2447	STORAGE SHED	$46,396	03/02/1990	6381 DECONINCK ROAD N.E.
				WOODBURN
Prince Seeds, Inc.				
4535	Hesston 60 Loafer w/Rears broom; Kello built 18' cover crop disc; John Deere 4960 200hp tractor.	$61,695	12/28/1995	6381 DECONINCK RD. NE
				WOODBURN
Quality Trading Co., LLC				
4523	Straw storage buildings, processing, transportation, compressing and other equipment.	$1,390,483	12/28/1995	11325 EHLEN ROAD
				AURORA
4592	ACREAGE	$29,090	02/23/1996	11325 EHLEN ROAD
				AURORA
	(2 certificates)	**$1,419,573**		
R.D. Farms				
2446	1972 HYSTER H180E SQUEEZE ATTACHMENT, NEW HOLLAND BALER AND BALE WAGON	$49,414	12/09/1988	4058 DAVIDSON ROAD NE
				ST PAUL
Radke Farms				
2430	4240 J.D. TRACTOR , LOAFER #1, LOAFER #2, PROPANE FLAMER	$22,185	03/03/1989	31014 GREN VALLEY RD
				SHEDD
2430	4240 J.D. TRACTOR , LOAFER #1, LOAFER #2, PROPANE FLAMER	$22,185	03/03/1989	31014 GREN VALLEY RD
				SHEDD
2692	ONE USED, JOHN DEERE 4440 TRACTOR	$19,125	04/14/1989	31014 GREEN VALLEY ROAD
				SHEDD
2693	STORAGE SHED FOR STRAW	$71,018	03/02/1990	31014 GREEN VALLEY ROAD

App. No.	Description of Facility	Certificate Amount	Issued	Location of Facility
				SHEDD
	(4 certificates)	$134,513		
Reerslev Farms, Inc.				
2710	STORAGE SHED FOR STRAW	$66,472	04/26/1991	STROME LANE JUNCTION CITY
Reiling, Neal				
3666	STORAGE SHED FOR STRAW	$50,660	01/23/1992	1940 S. BOONES FERRY RD. WOODBURN
Reiling, Norman & Itha				
4103	STORAGE BUILDING	$113,623	09/10/1993	10773 FELLER ROAD HUBBARD
Richards, Martin				
4173	12' REARS PULFLAIL 30' REARS PROPANE FLAMER	$15,828	12/10/1993	3459 SE BALDWIN DRIVE MADRAS
4327	TRACTOR	$16,236	03/03/1995	3454 SE BALDWIN DRIVE MADRAS
	(2 certificates)	$32,064		
RKM, Inc.				
4030	STORAGE SHED FOR THE STORAGE OF GRASS SEED STRAW	$22,476	07/23/1993	5360 ANACONDA DRIVE S SALEM
Rohner Farms				
3540	JOHN DEERE MODEL 27 FLAIL MOWER	$4,077	09/18/1991	31868 PEORIA ROAD ALBANY
Rohner, Edwin J.				
3296	POLE SHET FOR STRAW STORAGE	$63,810	03/11/1991	31623 PEORIA RD. ALBANY
Rohner, Steven J.				
4744	FIELD SANITATION & STRAW UTILIZATION & DISPOSAL	$54,788	08/22/1997	31868 Peoria Road Albany
Ropp, Lew				
3143	PURCHASE EQUIP. TO REDUCE OPEN FIELD BURNING	$42,679	08/10/1990	33105 RIDGE DRIVE TANGENT
Roselawn Seed Inc.				
3489	STORAGE SHED	$215,000	06/14/1991	7566 S. SCHNEIDER RD CANBY
Roth, Cecil E.				
4011	STORAGE SHED FOR STRAW	$63,251	06/10/1993	4551 HOWELL PRAIRIE RD NE

App. No.	Description of Facility	Certificate Amount	Issued	Location of Facility
				SILVERTON
Roth, Kenneth				
2815	STORAGE SHED	$20,007	12/01/1989	33803 7MI LNE S.E. ALBANY
Roth, Scott				
5037	John Deere 1450, 6 bottom plow and a John Deere 115 15' flail chopper.	$8,750	09/18/1998	36570 Spicer Drive Lebanon
Ruckert, Roger A. DBA G &				
3214	INSTALL UNDERGROUND DRAINAGE TILE	$161,830	03/11/1991	33660 RIDGE DRIVE TANGENT
3215	PURCHASED A NEW BALER, FLAMER & LOADER	$33,370	09/21/1990	33776 RIDGE DRIVE TANGENT
3216	AIR BAG FILTERS TO KEEP SEED-CLEANING WAREHOUSE DUST FREE	$11,764	12/14/1990	33660 RIDGE DRIVE TANGENT
3217	CONSTRUCT STORAGE SHED FOR STRAW	$55,239	09/21/1990	33776 RIDGE DRIVE TANGENT
4086	TILE FIELD	$38,854	07/23/1993	33776 RIDGE DRIVE TANGENT
	(5 certificates)	**$301,057**		
S-S Bailing				
3516	BALERS, STACKWAGON, HYDROLIC RAKE, HAY SQUEEZE	$313,143	12/31/1991	365 TIMOTHY LANE JUNCTION CITY
Sayer Farms				
4090	STORAGE SHED FOR STRAW	$98,456	07/23/1993	37177 HWY 228 BROWNSVILLE
Scheffel Farms, Inc.				
5050	A 27" Alloway wing flail chopper.	$28,191	09/18/1998	30060 Nixon Drive Halsey
5051	A 25'6" Kello-bilt dow disk.	$39,835	09/18/1998	30060 Nixon Drive Halsey
	(2 certificates)	**$68,026**		
Schmidt, Robert				
2713	STORAGE SHED FOR STRAW	$32,341	03/02/1990	16294 ARBOR GROVE ROAD WOODBURN
4381	PURCHASE A FLAIL	$10,450	07/07/1995	16294 ARBOR GROVE ROAD WOODBURN
	(2 certificates)	**$42,791**		

App. No.	Description of Facility	Certificate Amount	Issued	Location of Facility
Schmidt, Ronald				
4737	Flail Chopper to treat grass seed field after baling	$7,945	04/18/1997	6573 Sunnyview Road, NE Salem
4951	Green Line, Inc. Heavy Weight offset disc series 1000, 12' by Green Line, Inc.	$11,500	06/11/1998	6573 Sunnyview Road, NE Salem
	(2 certificates)	**$19,445**		
Schrock: Dean & Kathleen				
3490	STORAGE SHED	$73,470	06/14/1991	32387 HWY 34 TANGENT
3533	JOHN DEERE TRACTOR/REAR'S GRASS VAC/JD FLAIL SHREDDER/REAR'S PROPANE BURNER	$134,512	09/18/1991	31696 ALLEN LANE TANGENT
	(2 certificates)	**$207,982**		
Schwanke, Howard E.				
3290	STORAGE SHED FOR STRAW	$20,932	01/31/1991	9950 HELMICK RD. Monmouth
3299	505 NEW HOLLAND BALER, GMC 65 SERIES 16 FT FLATBED	$15,547	03/11/1991	9950 HEMLICK RD. Monmouth
	(2 certificates)	**$36,479**		
Singer, John				
3433	VAC WITH SIDE DUMP ATTACH./FORD TRUCK	$34,226	06/14/1991	21875 BUTTEVILLE ROAD AURORA
Smith Brothers Farm				
3369	JOHN DEERE 8640 SERIAL #8640H 002964-R	$28,371	04/26/1991	30736 PEORIA RD. SHEDD
3880	CHOP AND STACK STRAW TRACTOR	$27,927	03/05/1993	30736 PEORIA RD. SHEDD
4080	STORAGE BUILDING	$138,113	07/23/1993	30736 PEORIA RD. SHEDD
4237	G-K 3W 600 SWAMP BUGGIE	$61,080	07/22/1994	30736 PEORIA ROAD SHEDD
4383	STEEL BUILDING FOR STRAW STORAGE	$157,612	07/07/1995	30736 PEORIA ROAD SHEDD
	(5 certificates)	**$413,103**		

App. No.	Description of Facility	Certificate Amount	Issued	Location of Facility
Smith: Bill Smith				
2774	POLE BARN/HAY SEED	$34,471	01/31/1991	6968 CHAMPOEG ROAD ST PAUL
Smith: Loren Smith Farms				
3050	PURCHASE NEW HOLLAND ROUND BALER	$10,600	08/10/1990	30361 LOREN LANE CORVALLIS
3147	PURCHASE A USED NEW HOLLAND BALER	$7,400	08/10/1990	30361 LOREN LANE CORVALLIS
3150	PURCHASE A PAK FLAIL CHOPPER	$7,107	08/10/1990	30361 LOREN LANE CORVALLIS
3151	PURCHASE A RUGBY BALE HANDLER	$3,310	08/10/1990	30361 LOREN LANE CORVALLIS
3152	PURCHASE DOUBLE RAKE	$9,000	08/10/1990	30361 LOREN LANE CORVALLIS
	(5 certificates)	**$37,417**		
Smith: Smith Brothers Farm				
2758	STORAGE SHED FOR STRAW	$164,740	01/19/1990	30736 PEORIA ROAD SHEDD
Smyth Hereford Ranch				
2827	PURCHASE BALER, HAY SQUEEZ AND TRACTOR AS ALTERNATIVE TO FB	$112,412	03/02/1990	93461 SMYTH ROAD JUNCTION CITY
Stellmacher, William				
2902	BUILD A STORAGE SHED	$23,415	03/02/1990	30416 STELLMACHER ALBANY
3915	TRACTOR AND BALER	$59,040	01/29/1993	30416 STELLMACHER DRIVE ALBANY
4217	STRAW VACUUM	$35,000	04/22/1994	30416 STELLMACHER DRIVE ALBANY
4374	JD 4850 TRACTOR	$48,459	05/19/1995	30416 STELLMACHER DRIVE S ALBANY
	(4 certificates)	**$165,914**		
Strome-Fisher Farms Inc.				
3355	STORAGE SHED FOR BALED STRAW	$65,803	04/26/1991	93735 STROME LANE JUNCTION CITY
Taylor, Dennis				
3502	REARS FIELD FLAMER	$5,233	07/24/1991	2538 DRIFT CREEK RD, NE

App. No.	Description of Facility	Certificate Amount	Issued	Location of Facility
				SILVERTON
TRECO				
3400	PURCHASE FIELD FLAMER	$7,620	06/14/1991	10906 MONITOR-MCKEE RD. WOODBURN
Trico Farms				
4416	CASE DISC	$23,325	08/18/1995	63446 OR HWY 237 LA GRANDE
Vachter Spray Service, Inc.				
4010	STORAGE BUILDING FOR STRAW	$69,076	06/10/1993	17124 French Prarie Road NE ST PAUL
Valley Lime, Inc.				
3499	FREEMAN BALER AND STORAGE SHED	$73,882	07/24/1991	6070 STATE HWY #214 GERVAIS
Valley View Farms Inc.				
3173	PURCHASE A PROPANE BURNER	$7,250	08/10/1990	14008 TRIUMPH ROAD SE SUBLIMITY
Van Leeuwen, Tim & Lori				
3402	STORAGE BUILDING	$72,712	06/14/1991	30466 CREEK BEND ROAD HALSEY
Vanasche Farms				
3424	REARS PROPANE MOBIL FIELD BURNER/ INTERNATIONAL 22" - 8" TANDEM DISK	$24,680	06/14/1991	36130 NW WREN ROAD CORNELIUS
3425	JOHN DEERE TRACTOR AND LOADER	$18,698	06/14/1991	36130 NW WREN RD CORNELIUS
	(2 certificates)	**$43,378**		
Vanleeuwen, James				
3129	PURCHASE A BALER	$19,830	01/19/1990	27070 IRISH BEND LOOP HALSEY
3131	PURCHASE A 1977 FORD 8700 TRACTOR SNC553028	$10,000	03/02/1990	27070 IRISH BEND LOOP HALSEY
4236	NEW TRACTOR	$80,427	07/22/1994	27666 PEORIA ROAD HALSEY
4247	STRAW VACUUM	$35,000	07/22/1994	27070 IRISH BEND LOOP HALSEY
	(4 certificates)	**$145,257**		
Vanleeuwen: George				
3407	NEW HOLLAND ROUND BALER	$10,600	06/14/1991	27070 IRISH BEND LOOP HALSEY

App. No.	Description of Facility	Certificate Amount	Issued	Location of Facility
Venell Farms, Inc.				
2517	THREE STRAW STORAGE SHEDS (EACH 106' X 144' X 22')	$193,255	03/03/1989	30716 HIGHWAY 99W CORVALLIS
2624	ONE NEW HOLLAND ROUND BALER, ONE ALLEN RAKE	$31,000	03/03/1989	30742 VENELL PLACE CORVALLIS
3242	INSTALL A STORAGE BUILDING FOR STRAW	$53,116	04/26/1991	30742 VENELL PLACE CORVALLIS
3243	RAKE & BALER NEEDED FOR BALING STRAW TO DENSIFY FOR STORAGE	$211,422	04/26/1991	30742 VENELL PLACE CORVALLIS
3244	VENELL FIELD BURNING MACHINE	$35,438	04/26/1991	30742 VENELL PLACE CORVALLIS
	(5 certificates)	**$524,231**		
Walser Enterprises				
3974	2 CUSTOM FREEMAN BALER'S	$97,000	04/23/1993	1490 SE GEARY CIRCLE #2 ALBANY
3975	NEW HOLLAND HAYSTACKER	$70,810	04/23/1993	2440 FERRY STREET ALBANY
	(2 certificates)	**$167,810**		
Warden Farms				
3431	STRAW REMOVAL EQUIPMENT	$9,500	06/14/1991	29785 SMITH LOOP CORVALLIS
Wilmes, Walter J.				
2686	CONSTRUCT A STORAGE SHED	$44,952	03/02/1990	19095 ARBOR GROVE ROAD WOODBURN
Wilmes, Walter J./dba: Walt				
3172	PURCHASE NEW HOLLAND BALER MODEL 505T	$22,000	08/10/1990	19095 ARBOR GROVE ROAD, WOODBURN
Wirth, Dennis & Karen				
3286	FORD TRACTOR (MODEL TW-35)	$59,520	03/11/1991	31595 DRIVER ROAD TANGENT
4726	FIELD SANITATION & STRAW UTILIZATION & DISPOSAL	$58,310	04/18/1997	31595 Driver Road Tangent
	(2 certificates)	**$117,830**		
Wirth, Dennis D.				
2794	144' X 106' STRAW STORAGE SHED	$57,239	03/11/1991	31595 DRIVER ROAD TANGENT

App. No.	Description of Facility	Certificate Amount	Issued	Location of Facility
Zulinski, Wallacel				
3130	PURCHASE BIG BALER MODEL 8500/ACCUMISLATER MODEL 8581	$31,860	03/02/1990	9740 S. HWY. 211 CANBY

Alternatives to Field Burning
Certificates Issued by City

City	Sum	Average	Minimum	Maximum	No. of Certificates
ALBANY	$ 839,414	$ 38,155	$ 2,993	$ 97,000	22
AMITY	$ 260,294	$ 28,922	$ 6,565	$ 68,945	9
AURORA	$ 1,596,444	$ 319,289	$ 28,409	$ 1,390,483	5
BROOKS	$ 847,793	$ 105,974	$ 2,416	$ 415,382	8
BROWNSVILLE	$ 346,363	$ 34,636	$ 1,535	$ 98,456	10
CANBY	$ 246,860	$ 123,430	$ 31,860	$ 215,000	2
CORNELIUS	$ 43,378	$ 21,689	$ 18,698	$ 24,680	2
CORVALLIS	$ 867,430	$ 66,725	$ 3,310	$ 244,901	13
DALLAS	$ 18,106	$ 18,106	$ 18,106	$ 18,106	1
EUGENE	$ 311,137	$ 38,892	$ 4,000	$ 94,901	8
GERVAIS	$ 272,660	$ 38,951	$ 2,417	$ 73,882	7
HALSEY	$ 878,016	$ 43,901	$ 5,000	$ 115,752	20
HARRISBURG	$ 2,227,301	$ 58,613	$ 3,200	$ 185,734	38
HUBBARD	$ 137,793	$ 68,897	$ 24,170	$ 113,623	2
IMBLER	$ 17,450	$ 8,725	$ 5,200	$ 12,250	2
INDEPENDENCE	$ 7,749	$ 7,749	$ 7,749	$ 7,749	1
JEFFERSON	$ 87,870	$ 43,935	$ 13,500	$ 74,370	2
JUNCTION CITY	$ 1,637,185	$ 116,942	$ 7,076	$ 313,143	14
LA GRANDE	$ 40,925	$ 20,463	$ 17,600	$ 23,325	2
LEBANON	$ 70,175	$ 11,696	$ 8,750	$ 15,600	6
MADRAS	$ 32,064	$ 16,032	$ 15,828	$ 16,236	2
MCMINNVILLE	$ 235,677	$ 33,668	$ 10,602	$ 68,000	7
MOLALLA	$ 9,990	$ 9,990	$ 9,990	$ 9,990	1
Monmouth	$ 289,435	$ 57,887	$ 15,547	$ 117,331	5
MT ANGEL	$ 71,155	$ 23,718	$ 7,620	$ 50,035	3
PLAINVIEW	$ 118,149	$ 59,075	$ 58,193	$ 59,956	2
Rickreall	$ 131,499	$ 131,499	$ 131,499	$ 131,499	1
SALEM	$ 376,184	$ 34,199	$ 5,073	$ 85,404	11
SCIO	$ 62,576	$ 31,288	$ 24,074	$ 38,502	2
SHEDD	$ 1,734,766	$ 61,956	$ 6,565	$ 164,740	28
SHELBURN	$ 55,309	$ 27,655	$ 19,739	$ 35,570	2
Sheridan	$ 131,339	$ 131,339	$ 131,339	$ 131,339	1
SILVERTON	$ 961,646	$ 60,103	$ 2,616	$ 236,155	16
ST PAUL	$ 2,134,654	$ 68,860	$ 5,595	$ 249,836	31
SUBLIMITY	$ 7,250	$ 7,250	$ 7,250	$ 7,250	1
TANGENT	$ 1,940,959	$ 60,655	$ 3,231	$ 259,324	32
WOODBURN	$ 789,794	$ 41,568	$ 2,250	$ 160,245	19

Alternatives to Field Burning
Certificates Issued by Alternative

Alternative	Sum	Average	Minimum	Maximum	No. of Certificates
Tractors	$ 2,791,280	$ 46,521	$ 5,000	$ 249,836	60
Equipment	$ 6,073,810	$ 43,077	$ 1,535	$ 415,382	141
Straw Storage	$ 9,957,191	$ 90,520	$ 4,000	$ 1,390,483	110
Drainage	$ 894,595	$ 42,600	$ 2,993	$ 161,830	21
Acreage	$ 29,090	$ 29,090	$ 29,090	$ 29,090	1

Animal Waste Management
Certificates Issued by Applicant

The following report is a list of all farmers who have received a certificate for installing animal waste management systems.

The certificate amount represents the certified cost of the facility multiplied by the percentage of the facility cost that is allocable to pollution control. The amount of credit that the certificate holder may claim to offset their tax liability is one-half of the amount listed under Certificate Amount.

App. No.	Description of Facility	Certificate Amount	Issued	Location of Facility
ATSMA				
2313	MANURE STORAGE PND AND HYDROISIEVE SEPARATOR	$85,286	01/20/1989	10695 MERIDIAN ROAD MT ANGEL
BELT HARLEY S				
199	LIQUID MANURE CONTROL AND DISPOSAL FACILITIES CONSISTING OF A 45,000-GALLON TANK, 30 HP MANURE PUMP, MANURE SPRINKLER HEAD, AND CONCRETE RAMPS AND SIDEWALLS TO CONNECT TANK TO BUILDINGS.	$8,371	07/23/1971	ROUTE 1, BOX 51 YAMHILL
BIELENBERG DAVID J				
1330	THE FACILITY IS AN ANIMAL WASTE COLLECTION, RECIRCULATION, AND DISPOSAL FACILITY CONSISTING OF AN AERATED EARTHEN LAGOON, A RECIRCULATION PUMP FOR FLUSHING MANURE WASTES, SUMP AND ASSOCIATED PIPING.	$4,080	03/13/1981	16425 HERIGSTAD ROAD, N. E. SILVERTON
BROWNLEE BUSH DAIRY				
1725	THIS FACILITY IS AN ANIMAL WASTE MANURE CONTROL FACILITY CONSISTING OF A) 36' X 40' X 6' ROOFED, CONCRETE DRY STORAGE AREA, AND B) 7.7' X 42' AND 21' X 31.5' ROOFS OVER EXISTING CONCRETE SLABS.	$14,278	06/07/1985	9375 TRASK RIVER ROAD TILLAMOOK

BURKHART JACK R

551	THE FACILITIES WERE INSTALLED TO COLLECT AND STORE MANURE FOR CONTROLLED DISTRIBUTION THROUGH AN IRRIGATION SYSTEM WHICH KEEPS DRAINAGE OUT OF A TRIBUTARY OF THE LEWIS & CLARK RIVER.	$18,933	12/12/1975	ROUTE 3, BOX 403 ASTORIA

CARROLL PAUL E

1633	THE FACILITY IS A MANURE CONTROL SYSTEM CONSISTING OF A CONCRETE STORAGE TANK (25 FEET BY 60 FEET BY 4 FEET), A 10 HP AGITATOR PUMP, AND A 30 HP DISPOSAL PUMP.	$8,749	08/19/1983	8216 PLEASANT GROVE Rd. TRUNER

CHRISTENSEN TIMOTHY

2089	MANURE CONTROL SYSTEM CONSISTING OF A 15,538 CUBIC FOOT SOLIDS STARAGE AREA, A 6,584 SQUARE FOOT ROOF, AND 258 FEET OF CONCRETE CURBING	$11,453	12/11/1987	10735 HWY 101 SOUTH TILLAMOOK
2089	MANURE CONTROL SYSTEM CONSISTING OF A 15,538 CUBIC FOOT SOLIDS STARAGE AREA, A 6,584 SQUARE FOOT ROOF, AND 258 FEET OF CONCRETE CURBING	$11,453	12/11/1987	10735 HWY 101 SOUTH TILLAMOOK
	(2 certificates)	**$22,906**		

DAIRY DE BONTE HOE

317	42,000-GALLON MANURE TANK WITH MITCHELL PTO PUMP, VALVES, SPRINKLER, STAND AND MOUNTING RIM.	$4,900	06/08/1972	ROUTE 1, BOX 222 FOREST GROVE

DAIRYFOLKS HOLSTEIN

34	FACILITIES FOR DISPOSAL OF DAIRY WASTES, CONSISTING OF EXCAVATED SUMP, MANURE PUMP, IRRIGATION PIPE, SPRINKLER HEAD, AND NECESSARY MATERIALS FOR INSTALLATION.	$3,113	06/28/1968	RT. 2, BOX 398 FOREST GROVE

DBA S S FARMS

415	30,000 GALLON CONCRETE TANK, A MANURE PUMP WITH ELECTRIC MOTOR AND RELATED CONTROLS.	$5,309	04/02/1973	STAR ROUTE, BOX 135 FOREST GROVE

Description App. No.	Certificate of Facility	Amount	Location Issued	of Facility
DEJAGER				
2139	MANURE HOLDING FACILITY AND SPREADER	$23,247	06/02/1989	3292 WINTEL ROAD SOUTH JEFFERSON
2139	MANURE HOLDING FACILITY AND SPREADER	$23,247	06/02/1989	3292 WINTEL ROAD SOUTH JEFFERSON
	(2 certificates)	**$46,494**		
DELANY'S FUR RANCH				
3485	UST FOR ANIMAL WASTE	$15,497	12/13/1991	21318 HAZELNUT RIDGE ROAD SCOTTS MILLS
DURSON FARMS				
1878	MANURE STORAGE WITH ROCK FILL, CONCRETE SLAB, GUTTERS AND DOWNSPOUTS	$36,540	07/17/1987	2890 MCCORMICK LOOP TILLAMOOK
DUYCK VERNON E				
1605	AN ANIMAL WASTE CONTROL SYSTEM CONSISTING OF A 250,000 GALLON GLASS-LINED METAL STORAGE TANK, PUMP, AGITATOR, AND ASSOCIATED ACCESSORIES.	$75,224	07/08/1983	RT. 1, BOX 370 FORETS GROVE
EGGER RICHARD				
239	LIQUID MANURE TANK 30' DIA., 8' DEEP OF REINFORCED CONCRETE CONSTRUCTION; A CONCRETE SLAB 145' LONG BY 36' WIDE WITH GUTTERS FOR CAPTURING WATER; A GUTTERED ROOF; A 30 HP MANURE PUMP; A RAIN BIRD SPRINKLER, AND A TRACTOR BLADE.	$7,209	10/29/1971	ROUTE 2, BOX 64 HILLSBORO
ERIC & ROY PETERSON				
1608	THE FACILITY IS A MANURE CONTROL SYSTEM CONSISTING OF A 35' X'65' MANURE SOLIDS STORAGE BLDG., A 32' DIAMETER CONCRETE LIQUID STORAGE TANK, ROOF SECTIONS (50' X 65' AND 26' X 35'), 362' OF ROOF GUTTERING, AND 70' OF CONCRETE CURBING.	$32,319	10/07/1983	470 BAYOCEAN ROAD TILLAMOOK
EVERT FREDERIKS DAIRY				
182	CONCRETE MANURE TANK, 30 FT. DIAMETER BY 8 FT. DEEP WITH 30-HP MITCHELL PUMP.	$6,682	04/21/1972	ROUTE 1, BOX 244 AURORA

Description App. No.	Certificate of Facility	Amount	Location Issued	of Facility
FENK CARL				
1723	THIS IS AN ANIMAL MANURE CONTROL FACILITY CONSISTING OF A ROOFED 67' X 62' DRY STORAGE AREA AND A 42' X 69' ROOF OVER AN EXISTING CONFINEMENT AREA.	$13,419	06/07/1985	11420 CHANCE ROAD TILLAMOOK
1872	MANURE CONTROL FACILITY CONSISTING OF A 20 FOOT DIAMETER X 7.5 FOOT HIGH LIQUID STORAGE TANK	$8,786	04/17/1987	11420 CHANCE ROAD TILLAMOOK
	(2 certificates)	**$22,205**		
FOX ROBERT W				
66	LIQUID MANURE DISPOSAL SYSTEM INCLUDING CONCRETE COLLECTING SLABS, STORAGE TANK, MANURE PUMP, VALVES AND MANURE SPRINKLER.	$5,332	03/28/1969	ROUTE 1, BOX 265 AUMSVILLE
FRANSSEN B H				
211	LIQUID MANURE DISPOSAL SYSTEM CONSISTING OF A 27,000 GALLON CONCRETE MANURE TANK AND 30 HP ELECTRIC PUMP AND AGITATOR.	$7,796	07/27/1972	ROUTE 1, BOX 1370 COQUILLE
FRED MESSERLE & SONS				
180	LIQUID MANURE DISPOSAL SYSTEM.	$12,576	03/05/1971	FARM NO. 2 SUMNER
295	LIQUID MANURE DISPOSAL SYSTEM.	$12,576	02/25/1972	NOT AVAILABLE SUMNER
	(2 certificates)	**$25,152**		
FRED MESSERLE SONS				
161	LIQUID MANURE DISPOSAL SYSTEM.	$17,222	10/30/1970	ROUTE 3, BOX 34 COOS BAY
294	LIQUID MANURE DISPOSAL SYSTEM.	$17,222	02/25/1972	ROUTE 1, BOX 275 COQUILLE
	(2 certificates)	**$34,444**		
FRED MESSERLE SONS				
293	LIQUID MANURE DISPOSAL SYSTEM.	$9,987	07/27/1972	ROUTE 3, BOX 110 COOS BAY
530	MANURE DISPOSAL SYSTEM.	$6,974	02/22/1974	ROUTE 3, BOX 34 COOS BAY
	(2 certificates)	**$16,961**		

Description App. No.	Certificate of Facility	Amount	Location Issued	of Facility
GAMBLE FARMS				
1779	SHED FOR COMPOSTING CHICKEN MANURE, LOADER WITH BUCKET, INSTALLATION	$49,308	10/24/1986	26142 CORY ROAD JUNCTION CITY
GIENGER FARMS INC				
1657	THIS FACILITY IS A MANURE CONTROL SYSTEM CONSISTING OF A ROOFED 40' X 228' CONCRETE STORAGE BUNKER WITH 8' SIDEWALLS.	$51,538	02/24/1984	4160 BOQUIST ROAD NORTH TILLAMOOK
HAFCO INC				
53	FACILITY CONSISTS OF 2 SEPARATE REINFORCED CONCRETE LIQUID MANURE TANKS AND INCLUDES 2 MANURE PUMPS, ONE OF WHICH IS POWER TAKEOFF DRIVEN, AND ONE OF WHICH IS ELECTRIC MOTOR DRIVEN.	$11,344	12/13/1968	RT. 1, BOX 145 SCIO
HEMENWAY FARMS				
2488	FACILITY FOR TREATMENT & STORAGE OF ANIMAL WASTE	$65,185	09/18/1991	80254 SEARS ROAD COTTAGE GROVE
HERTEL CLARENCE				
642	CONCRETE TANK (44,000 GALLON SIZE) FOR HOLDING ONE MONTH'S ANIMAL WASTE WHEN SPREADING IS NOT ADVISABLE.	$3,824	05/23/1975	EVERS ROAD FOREST GROVE
HORNING BROTHERS				
146	ONE 52,000 GALLON CONCRETE TANK WITH COLLECTION GUTTER, TWO POWER TAKE-OFF MANURE PUMPS, 2,540 FT. OF 4" PIPE, AND ONE MANURE SPRINKLER.	$6,989	07/24/1970	ROUTE 3, BOX 588 CORVALLIS
HUMPHREY DAIRY FARM				
393	CATTLE MANURE SOLIDS STORAGE BUILDING.	$11,048	06/21/1974	ROUTE 1, BOX 211 INDEPENDENCE
J & L DAIRY				
1760	MANURE CONTROL FACILITY CONSISTING OF 1) 2 6' HIGH CONCRETE RETAINING WALLS, 2) A 70' X 60' X 6' DRY STORAGE AREA, AND 3) A 75' X 95' GALVANIZED METAL ROOF	$36,535	04/25/1986	3700 POSSETTI ROAD TILLAMOOK
JENCK KENNETH M				
1776	MANURE CONTROL FACILITY CONSISTING OF LIQUID TANK, DRY STORAGE, ROOFING, CURBING, GUTTERING, AND TILE.	$69,588	04/25/1986	3555 GIENGER ROAD TILLAMOOK

Description App. No.	Certificate of Facility	Amount	Issued	Location of Facility
JIM DURRER				
1824	45' X 94' GUTTERED ROOF OVER AN EXISTING MANURE ACCUMLATION AREA	$14,506	06/13/1986	2905 MCCORMICK LOOP TILLAMOOK
KAMLADE SR NICOLAAS				
1389	THE FACILITY IS A MANURE FLUSHING AND DISPOSAL SYSTEM CONSISTING OF A 26 AC. FT. EARTHEN LAGOON, A 30,000 GALLON CONCRETE TANK, A 9,375 SQ. FT. CONCRETE SLAB, PUMPS, HYDROSIEVE, CONCRETE DITCH, AND MANURE DISPOSAL GUNS.	$57,758	10/09/1981	14380 SKELTON ROAD, S. E. JEFFERSON
KISTNER & WEBER				
68	PURCHASE AND INSTALLATION OF 40 HP MANURE PUMP AND IRRIGATION PIPE FOR DISPOSAL OF DAIRY MANURE.	$4,856	03/28/1969	ROUTE 2, BOX 279 FOREST GROVE
LANDOLT, RAMON G				
1574	THE FACILITY IS AN ANIMAL MANURE CONTROL SYSTEM.	$14,305	01/14/1983	7440 KILCHIS RIVER ROAD TILLAMOOK
LOUIS HILLECKE & SONS				
238	CONCRETE MANURE TANK 30 FT. IN DIAMETER, 8 FT. DEEP; A MITCHELL MODEL 2030 MANURE PUMP; A RAIN BIRD MANURE SPRINKLER; A NU FIELD MODEL 1257 TRACTOR AND CONNECTING CONCRETE SLAB AREAS TO ALLOW SCRAPING OF MANURE TO THE TANK.	$7,843	10/29/1971	HILLECKE ROAD HILLSBORO
MARIE COCHRAN DAIRY				
2237	MANURE CONTROL SYSTEM /9,366 CUBIC FOOT SOLIDS STORAGE BLDG. & 2,774 CUBIC FOOT WASTE WATER CONCRETE STORAGE TANK.	$11,987	12/09/1988	ROUTE 1, BOX 1340 COQUILLE
MARWYN NAEGELI DAIRY				
2069	DRY MANURE STORAGE FACILITY ROAD, N	$12,465 (95.8' X 15.5' X 6')	08/28/1987	175 WILSON RIVER LOOP TILLAMOOK
2069	DRY MANURE STORAGE FACILITY ROAD, N	$12,465 (95.8' X 15.5' X 6')	08/28/1987	175 WILSON RIVER LOOP TILLAMOOK
	(2 certificates)	**$24,930**		
MCGRADY				
1429	THE FACILITY IS A MANURE COLLECTION AND DISPOSAL FACILITY CONSISTING OF A 40 FOOT DIAMETER CONCRETE	$43,706	12/04/1981	12285 ELKINS ROAD MONMOUTH

Description App. No.	Certificate of Facility	Amount	Location Issued	of Facility
	TANK, PUMP, DISTRIBUTION LINES, AND A MANURE GUN.			
MCNIEL JESS JR &				
67	CIRCULAR CONCRETE MANURE STORAGE TANK WITH COVER, A 25 HP MANURE PUMP, 990 FT. IRRIGATION PIPE AND A MANURE SPRINKLER.	$5,150	03/28/1969	ROUTE 1, BOX 1410 WILSONVILLE
MILLER NORMAN				
1715	THE FACILITY IS AN ANIMAL MANURE STORAGE FACILITY CONSISTING OF A 24' X 50' X 6' ROOFED DRY STORAGE AREA AND AN ADDITIONAL 24' X 52' STEEL ROOF AND ASSOCIATED STRUCTURAL SUPPORT FACILITIES.	$2,301	04/19/1985	4930 101 SOUTH TILLAMOOK
1777	A MANURE STORAGE FACILITY CONSISTING OF A 32' DIAMETER X 10' LIQUID STORAGE TANK.	$17,334	04/25/1986	4930 101 SOUTH TILLAMOOK
	(2 certificates)	**$19,635**		
NIEHUS, ROBERT C				
1499	THIS FACILITY IS A MENURE COLLECTION AND HOLDING FACILITY CONSISTING OF AN 8' X 32' DIAMETER CONCRETE MANURE TANK, A MITCHELL MIXING PUMP, 100' OF 8" PVC PIPE, AND 80' OF 4" PVC PIPE.	$13,516	04/16/1982	3797 RAY BELL ROAD, N. E. ST PAUL
NORMAN ARMSTRONG				
1541	THE FACILITY IS A MANURE CONTROL SYSTEM.	$26,172	10/15/1982	1915 TILLAMOOK RIVER ROAD TILLAMOOK
PAUL MEDINA DAIRY				
3924	ANIMAL WASTE DISPOSAL FACILITY	$53,124	10/29/1993	7000 HIGH BANKS RD CENTRAL POINT
PITNEY JAMES B BETTY Z				
334	ANIMAL WASTE COLLECTION, STORAGE AND LAND DISPOSAL FACILITIES.	$7,086	07/27/1972	STAR ROUTE JUNCTION CITY
PUGH CENTURY DAIRY				
1458	THE FACILITY IS A MANURE CONTROL SYSTEM CONSISTING OF A 3 ACRE EARTHEN LAGOON, 20 HP AND 30 HP ELECTRIC PUMPS, AND A SOLIDS SEPARATOR.	$56,250	08/27/1982	31366 SHEDD CEMETERY DR. SHEDD

Description App. No.	Certificate of Facility	Amount	Issued	Location of Facility
PUTNAM ELWYN L				
324	38,500-GALLON REINFORCED CONCRETE MANURE TANK WITH SUPERIOR AGITATOR AND SUPERIOR 1000-GALLON SELF-LOADING SPREADER.	$6,960	06/08/1972	ROUTE 2, BOX 925 BEND
Rieben, Erenest R				
4384	INGROUND MANURE TANK	$12,086	11/17/1995	39125 NW MOUNTAINDALE RD BANKS
RIEGER JOHN				
1822	ANIMAL WASTE MANURE CONTROL FACILITY CONSISTING OF A CONCRETED 59' X 44' X 6' HIGH DRY STORAGE AREA AND A 14' X 50' GUTTERED ROOF	$28,565	06/13/1986	8735 BEWLEY CREEK ROAD TILLAMOOK
ROBERT WASSMER				
1877	BELOW GROUND LIQUID MANURE TANK AND AGITATOR	$38,198	07/17/1987	6205 IDAVILLE ROAD TILLAMOOK
ROOD JR FRANK B				
183	24' DIAMETER X 8' DEEP CONCRETE MANURE TANK, ONE MITCHELL MANURE PUMP, APPROXIMATELY 3,450 FEET OF 5-INCH PVC PIPE WITH ASSOCIATED FITTINGS AND INSTALLATION.	$7,971	06/04/1971	2220 WILLANCH WAY NORTH BEND
RUEF FUR RANCH				
2331	ANIMAL WASTE COLLECTION AND IRRIGATION SYSTEM	$107,374	04/14/1989	12305 RUEF LANE MT ANGEL
SAM OBERG				
1788	MANURE CONTROL FACILITY CONSISTING OF A COVERED 26' X 60' DRY STORAGE SHED WITH 6' CONCRETE SIDEWALLS	$9,015	04/25/1986	4930 KINGS VALLEY DALLAS HWY DALLAS
SCHWEIZER DAIRY				
1679	MANURE CONTROL SYSTEM IMPROVEMENTS CONSISTING OF AN 8' DIAMETER X 8' DEEP CONCRETE SUMP, A 1/2 HP SUMP PUMP WITH LEVEL CONTROL SWITCH, APPROXIMATELY 142' OF 6" GUTTER, 250' OF 6" TILE, AND APPROXIMATELY 100' OF OPEN DIVERSION DITCH.	$2,557	06/29/1984	16109 S. E. HIGHWAY 212 CLACKAMAS

Description App. No.	Certificate of Facility	Amount	Issued	Location of Facility
SIDNEY VAN DYKE DAIRY				
1334	THE CLAIMED FACILITY IS AN ANIMAL WASTE CONTROL SYSTEM CONSISTING OF A SCREEN, AN EARTHEN LAGOON, PUMPS, PIPING, AND A SPRINKLER SYSTEM.	$74,700	03/13/1981	8105 WALLACE ROAD, N. W. SALEM
SILVER DOME FARMS				
64	REINFORCED CONCRETE LIQUID MANURE HOLDING TANK (72' X 20' X 8') WITH MANURE PUMP AND SPRINKLER.	$6,285	01/31/1969	ROUTE 4, BOX 520 ALBANY
STEWART BERNARD A				
319	CATTLE MANURE SOLIDS STORAGE SHED CONSTRUCTED CONCURRENTLY WITH NEW CONFINED FEEDING OPERATION.	$6,241	04/21/1972	ROUTE 3, BOX 178 SCIO
SUMICH JOHN G				
391	ANIMAL WASTE COLLECTION, STORAGE, AND LAND DISPOSAL FACILITIES.	$11,629	03/02/1973	SUMICH ROAD BLACHLY
SUNNY 70 FARMS INC				
920	DAIRY FARM ANIMAL WASTE CONTROL SYSTEM.	$16,458	02/24/1978	WELLS LANDING ROAD INDEPENDENCE
SUNRISE ACRES DAIRY				
1374	THE FACILITY CONSISTS OF A 35 FOOT DIAMETER CONCRETE MANURE TANK, A MANURE PUMP, AND A HONEY WAGON SPREADER.	$18,043	07/17/1981	3720 BAUMGARTNER ROAD TILLAMOOK
THUN JERSEYS				
1875	80.1' X 16' CIRCULAR ABOVE GROUND LIQUID MANURE TANK WITH AGITATOR, PUMP, AND TRANSFER LINES	$64,681	07/17/1987	2065 MCCORMICK LOOP TILLAMOOK
TOM BLANCHARD DAIRY				
2282	MANURE CONTROL SYSTEM CONSISTING OF A 20'DIAMETER X 7.5'HIGH LIQUID MANURE TANK AND 76' OF PVC PIPE	$8,819	12/11/1987	10000 CHANCE ROAD TILLAMOOK
Van Dyke, Bernard				
4720	Animal waste management system which consists of an underground reinforced concrete tank with a reinforced concrete apron connecting tank to barn.	$15,582	06/05/1997	2590 NW Martin Rd. FOREST GROVE

Description App. No.	Certificate of Facility	Amount	Issued	Location of Facility
Vandehey: Robert C.				
4766	Animal Waste Management System	$82,013	08/22/1997	16509 NW Sellers Rd. BANKS,
Versteeg, Lester L. & Ruth				
565	ANIMAL WASTES COLLECTION SYSTEM FROM TWO BUILDINGS CONTAINING UP TO 600 HOGS.	$12,501	01/24/1975	ROUTE 1, BOX 242 MONMOUTH
West, Dwight				
384	THREE REINFORCED CONCRETE ANIMAL WASTE STORAGE PITS, A REINFORCED CONCRETE PUMPING PIT, 6,380 SQ. FT. OF STEEL SLOTTED FLOORS OVER THE PITS, 11,440 SQ. FT OF CONCRETE SANITATION FLOOR WITH CURBS, AND ASSOCIATED ANIMAL WASTE DISPOSAL EQUIP.	$18,066	11/30/1972	ROUTE 2, BOX 139 MCMINNVILLE
385	ANAEROBIC LAGOON OF 250,000 CUBIC FEET CAPACITY AND AN AEROBIC LAGOON OF 180,000 CUBIC FEET CAPACITY TO PROOVIDE COMPLETE CAPTURE AND HOLDING OF ANIMAL WASTES.	$7,101	11/30/1972	ROUTE 2, BOX 139 MCMINNVILLE
	(2 certificates)	**$25,167**		
Whitney, Harold L.				
1687	THE FACILITY IS A MANURE CONTROL SYSTEM CONSISTING OF A 14,140 CUBIC FOOT COVERED DRY STORAGE AREA WITH A 4 FOOT HIGH CONCRETE WALL ON THE DOWNHILL SIDE, A 45,000 GALLON EARTHEN POND, AND A MANURE PUMP AND SOLIDS CHOPPER-AGITATOR.	$15,408	08/10/1984	22365 HIGHWAY 22 SHERIDAN
WILLIAMSON ROBERT G				
1549	THE FACILITY IS AN ANIMAL MANURE CONTROL SYSTEM CONSISTING OF A SOLIDS SEPARATING SCREEN, 137 YARDS OF CONCRETE, A LIQUID WASTE PUMP, AND EARTHEN HOLDING LAGOON, AND A LIQUID RECYCLE PUMP.	$34,712	12/03/1982	19527 CASE ROAD, N. E. AURORA

Animal Waste Management Systems
Certificates Issued By City

City	Sum	Average	Minimum	Maximum	No. of Certificates
ALBANY	$ 6,285	$ 6,285	$ 6,285	$ 6,285	1
ASTORIA	$ 18,933	$ 18,933	$ 18,933	$ 18,933	1
AUMSVILLE	$ 5,332	$ 5,332	$ 5,332	$ 5,332	1
AURORA	$ 41,394	$ 20,697	$ 6,682	$ 34,712	2
BANKS	$ 94,099	$ 47,050	$ 12,086	$ 82,013	2
BEND	$ 6,960	$ 6,960	$ 6,960	$ 6,960	1
BLACHLY	$ 11,629	$ 11,629	$ 11,629	$ 11,629	1
CENTRAL POINT	$ 53,124	$ 53,124	$ 53,124	$ 53,124	1
CLACKAMAS	$ 2,557	$ 2,557	$ 2,557	$ 2,557	1
COOS BAY	$ 34,183	$ 11,394	$ 6,974	$ 17,222	3
COQUILLE	$ 37,005	$ 12,335	$ 7,796	$ 17,222	3
CORVALLIS	$ 6,989	$ 6,989	$ 6,989	$ 6,989	1
COTTAGE GROVE	$ 65,185	$ 65,185	$ 65,185	$ 65,185	1
DALLAS	$ 9,015	$ 9,015	$ 9,015	$ 9,015	1
FOREST GROVE	$ 112,808	$ 16,115	$ 3,113	$ 75,224	7
HILLSBORO	$ 15,052	$ 7,526	$ 7,209	$ 7,843	2
INDEPENDENCE	$ 27,506	$ 13,753	$ 11,048	$ 16,458	2
JEFFERSON	$ 81,005	$ 40,503	$ 23,247	$ 57,758	2
JUNCTION CITY	$ 56,394	$ 28,197	$ 7,086	$ 49,308	2
MCMINNVILLE	$ 25,167	$ 12,584	$ 7,101	$ 18,066	2
Monmouth	$ 56,207	$ 28,104	$ 12,501	$ 43,706	2
MT ANGEL	$ 192,660	$ 96,330	$ 85,286	$ 107,374	2
NORTH BEND	$ 7,971	$ 7,971	$ 7,971	$ 7,971	1
SALEM	$ 74,700	$ 74,700	$ 74,700	$ 74,700	1
SCIO	$ 17,585	$ 8,793	$ 6,241	$ 11,344	2
SCOTTS MILLS	$ 15,497	$ 15,497	$ 15,497	$ 15,497	1
SHEDD	$ 56,250	$ 56,250	$ 56,250	$ 56,250	1
SHERIDAN	$ 15,408	$ 15,408	$ 15,408	$ 15,408	1
SILVERTON	$ 4,080	$ 4,080	$ 4,080	$ 4,080	1
ST PAUL	$ 13,516	$ 13,516	$ 13,516	$ 13,516	1
SUMNER	$ 25,152	$ 12,576	$ 12,576	$ 12,576	2
TILLAMOOK	$ 532,310	$ 25,348	$ 2,301	$ 69,588	21
TRUNER	$ 8,749	$ 8,749	$ 8,749	$ 8,749	1
WILSONVILLE	$ 5,150	$ 5,150	$ 5,150	$ 5,150	1
YAMHILL	$ 8,371	$ 8,371	$ 8,371	$ 8,371	1

Overview of Pollution Control Tax Credit Program

ORS 468.150 -- 468.190
OAR 340-16-005 -- 340-16-050

The 1967 Legislature established the Pollution Control Facility Tax Credit program to compensate businesses responding to environmental requirements. The program expanded to encourage businesses to invest in technologies and processes that prevent, control or reduce significant amounts of pollution. Eligibility includes:

- Air and water pollution control devices;
- Solid waste recycling or material recovery facilities;
- Hazardous waste and used-oil recycling or resource recovery facilities;
- Facilities or redesign of facilities to:
  - treat, reduce or eliminate hazardous waste, and
  - reduce or eliminate noise pollution;
- Approved equipment or methods used as an alternative to open field burning;
- Pollution-control devices for underground storage tanks; and
- Facilities reclaiming plastics products.

There is no limit to the amount of investment cost available for certification in any one year, to any one applicant, or to the program.

The Environmental Quality Commission issues certificates for eligible investments. The value of the certificate is 50% of the investment cost allocable to pollution control. Each year, for up to 10 years, the certificate holder may take up to 10% of the certificate value as credit against their Oregon tax liability.

A final application for a tax credit must be made within two years of substantial completion of the facility.

Preliminary certification is optional but must be submitted before installation or construction of the facility is completed.

For Further Information

Maggie Vandehey
Tax Credit Coordinator
(503) 229-6878

or toll-free within Oregon
(503) **1-800-452-4011 Ext. 6878**
TTY: (503) 229-6993

You can also visit our DEQ website at http://www.deq.state.or.us/

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State of Oregon
Department of Environmental Quality
811 SW Sixth Avenue
Portland, Oregon 97204

Oregon's Climate Change Program

Sam Sadler, Oregon Office of Energy

Background on Oregon Climate Change Activities

- *Oregon Task Force on Global Warming Report to the Governor and Legislature*, 1990
- *Fourth Biennial Energy Plan*, 1991. Greenhouse gas reduction strategy.
- Oregon Progress Board adopted CO_2 benchmark to hold emissions at 1990 rate, 1992.
- Oregon Public Utility Commission, 1993. Least cost planning requirement that utilities consider climate change in preparing the portfolios of their least-cost plans.
- Oregon Legislature added climate change as a consideration under Energy Facility Siting Council's "need for facility" rule, 1993.
- *Report on Reducing Oregon's Greenhouse Gas Emissions*, 1995. State greenhouse gas reduction strategy.
- Energy Facility Siting Council adopted 500 megawatt exemption rule, 1995. Competition among developers based on lowest net CO_2 emissions.
- Oregon Legislature adopted CO_2 emissions standard for energy facilities, 1997.

Oregon Carbon Dioxide Standard for New Energy Facilities

- Oregon law sets the standard for base-load, natural gas-fueled power plants at 0.7 lbs. CO_2/kWh.

- A developer must meet the standard prior to beginning construction of the facility.

- The law allows an applicant for a base-load gas plant to meet the standard through plant efficiency, co-generation that will offset fossil fuels, and other CO_2 offsets.

- Meeting the standard requires offsets. The certificate holder cannot meet through plant efficiency alone.

- The law also establishes a "monetary path" as a mechanism for applicants to meet the standard. This path permits an applicant to pay a deemed amount per ton of CO_2 offset, which is $0.57 per ton of CO_2.

- The law describes the criteria for an independent, non-profit (501(c)(3)) organization that will administer the monetary path.

- The Oregon Climate Trust has been formed in accordance with the criteria in the law to serve as a qualifying organization. Its primary role is to acquire CO_2 offsets with funds from the energy facility siting process.

- To date, the Council has issued site certificates for three facilities that meet the CO_2 standard. These facilities will provide about $7 million in offset funds to the Oregon Climate Trust.

- The law further provides that the Council may set specific standards for other energy facilities that emit CO_2. It is now considering standards for peaking power plants and nongenerating facilities.

Climate Change Education Activities: Making Climate Change a Local Issue

- The Oregon Office of Energy has received a grant from EPA to educate a wide range of Oregonians about what they can do on a personal, business or governmental level to reduce greenhouse gas emissions.

- The program funded by the grant is called "Making Climate Change a Local Issue." The program incorporates three basic messages:

    - What climate change means to Oregonians
    - What Oregonians can do about climate change
    - Who can help Oregonians take action against climate change

- Using these messages, the program will create educational materials and information forums that target four arenas for outreach:

    - Outreach to local governments, tribes and other policy makers
    - Outreach to businesses
    - Outreach to existing conservation programs
    - Outreach to citizens statewide

- Partners:
    - Department of Environmental Quality
    - City of Portland
    - Oregon Climate Trust
    - CarSharing Portland, Inc.
    - Portland Sustainable Lifestyles Campaign (EcoTeam)
    - Oregon State University Extension Energy Program

- The Office of Energy is preparing a video to use in its presentations, along with various targeted publications.

- The Office of Energy and the other partners expect to launch the program to the public in March 1999.

Conclusion

- The state's CO_2 standard for new energy facilities was the result of many years of developing climate change policies at the state level.

- We are now focusing on educating individuals, businesses and local governments about what they can do to in response to the threat of climate change. We believe there is a need to make it clear to the public what the threat of climate change means to the state and what opportunities exist for people to take actions to reduce greenhouse gas emissions.

Oregon's Climate Change Program

Presented to the
Oregon Environmental Quality Commission
December 11, 1998
Agenda Item A

Sam Sadler
Oregon Office of Energy

I appreciate the opportunity to present to the Environmental Quality Commission an overview of the Oregon's activities to address climate change. I shall first present a summary of the state's activities over the last 10 years and how that policy foundation lead to the state adopting a carbon dioxide ("CO_2") standard. I shall then briefly discuss the CO_2 standard for new energy facilities. Finally, I shall give an overview of our current climate change education project, which the Office of Energy is conducting in collaboration with the Department of Environmental Quality and several other partners.

Background on Oregon Climate Change Activities

In June 1997, Governor John Kitzhaber signed into law a bill that sets carbon dioxide standards for new energy facilities. The law was the culmination of a process that began in 1988, when the Office of Energy ("OOE") began chairing a task force of twelve state agencies to look at the potential impact of climate change in Oregon and what the State could do to address it.

In 1989, the Oregon Legislature instructed OOE to prepare a strategy to reduce greenhouse gas emissions to a rate 20 percent below 1988 levels by 2005. OOE established an advisory group of about 60 representatives of environmental groups, affected businesses, and state agencies. OOE published the strategy and a state greenhouse gas emissions inventory in its *Fourth Biennial Energy Plan* in 1991. However, the Legislature did not adopt the target of a 20 percent reduction as a state goal.

Having climate change in the law concerning energy planning provided the foundation for continuing to address it in other state forums. The Oregon Public Utility Commission added a requirement that utilities consider climate change in preparing the portfolios of their least-cost plans. Likewise, the Oregon Energy Facility Siting Council ("Council") added climate change as a consideration under its "need for facility" rule.

In 1992, at the recommendation of OOE, the Oregon Progress Board adopted a state benchmark to hold Oregon's CO_2 emissions to the 1990 rate. OOE's *Fifth Biennial Energy Plan*, published shortly thereafter, proposed to develop a strategy to meet that benchmark. The Environmental Protection Agency's State and Local Climate Change Program funded the update of the state's greenhouse gas inventory and the development of the state strategy to meet the benchmark, which OOE published in 1995 as the *Report on Reducing Oregon's Greenhouse Gas Emissions*. The report showed that achieving the benchmark is beyond the capability of the state acting alone, without corresponding federal actions. In fact, Oregon's CO_2 emissions in 1996 were 19 percent higher than in

1990. Taking into account some of the effect of the variation in our hydro system, another way to look at our inventory shows that the state's CO_2 emissions were 6 percent higher than in 1990.

In 1995, the legislature passed a bill granting a one-time exemption for up to 500 megawatts ("MW") from the Council's need for facility standard. The Council conducted a competition that would determine which developer would receive the exemption based primarily on the lowest net CO_2 emissions. The legislature and the governor also created a task force to look at the Council's standards, particularly the need for facility standard. The task force recommended that the state drop the need for facility standard but also that it adopt a CO_2 standard, since consideration of climate change was included under the need for facility standard and would otherwise be lost. The 500 MW exemption competition was a critical precedent for the standard. The competition demonstrated it was possible to evaluate mitigation measures in a regulatory proceeding and that developers could achieve significant reductions in a competitive market.

The standard was built on nine years of reports, strategies, regulatory actions, and the experience of the CO_2-based competition. None of the reports or strategies had specifically recommended such a standard. However, they set the context in which all parties could agree that the standard was appropriate.

Oregon Carbon Dioxide Standard for New Energy Facilities

Oregon law sets the standard for base-load, natural gas-fueled, combined-cycle combustion turbines at 0.7 lbs. CO_2/kWh. This is 17 percent lower than the CO_2 emissions of the most efficient plant currently operating in the US. The law specifies that the Council will calculate net CO_2 emissions by assuming a 30-year life for the plant and a 100 percent capacity factor. A site certificate holder must meet the standard prior to beginning construction of the facility.

The Council may change the standard after two years. A modified standard must be 17 percent below the emission rate of the most efficient plant then operating.

The law further provides that the Council may set specific standards for other energy facilities that emit CO_2. The Council is currently in a rule-making process to set CO_2 emission standards for non-base load generating plants (peaking plants) and for nongenerating facilities (compressors for gas storage facilities and intrastate natural gas pipelines).

The law allows an applicant for a base-load gas plant to meet the standard through plant efficiency, co-generation that will offset fossil fuels, and other CO_2 offsets. The applicant must guarantee it will achieve the efficiency of the plant and will achieve the proposed co-generation offsets. The Council will evaluate other offset projects the applicant proposes. The applicant does not have to guarantee the projected offsets from such projects.

The law also establishes a "monetary path" as a mechanism for applicants to meet the standard. This path permits an applicant to pay a deemed amount per ton of CO_2 offset. The law sets the initial amount at $0.57 per ton of CO_2. It allows the Council to adjust the amount by 50 percent after three years, based on data about the cost of offset projects.

The law describes the criteria for an independent, non-profit (501(c)(3)) organization that will administer the monetary path. It does not name or establish an organization. The Oregon Climate Trust has been formed in accordance with the criteria in the law to serve as a qualifying organization. Its primary role is to acquire CO_2 offsets with funds from the energy facility siting process. The applicants have an advisory role to the Trust in choosing projects, but no authority or responsibility for administration of the funds. The Council appoints three of the seven board members of the Trust, but it has no direct authority over the Trust other than to determine whether it qualifies under the law.

To date, the Council has issued site certificates for three facilities that meet the CO_2 standard. Each of these was an amendment to site certificates for plants that had not yet begun construction. These facilities will provide about $7 million in offset funds to the Oregon Climate Trust. One of the facilities, the Klamath Cogeneration Project, will also offset more than 11 million tons of CO_2 emissions through projects it will manage.

The Oregon Legislature passed the standard following a public process that reviewed all energy facility siting standards. The bill passed by unanimous votes in each chamber. The public process leading up to the bill allowed the key stakeholders—power plant developers, environmental groups, and state agencies—to ensure the standard is workable. Significantly, industry accepted the standard as achievable in a competitive power market. Its support was contingent on removing the need for facility standard.

Climate Change Education Activities: Making Climate Change a Local Issue

To date, much of our climate change focus has been on state-level policies. We are now working to involve a broad range of citizens, local governments, businesses, agencies, and organizations in helping to reduce greenhouse gas emissions. OOE has received a grant from EPA to educate a wide range of Oregonians about what they can do on a personal, business or governmental level to reduce greenhouse gas emissions.

The program funded by the grant is called "Making Climate Change a Local Issue." The program incorporates three basic messages:

- What climate change means to Oregonians
- What Oregonians can do about climate change
- Who can help Oregonians take action against climate change

Using these messages, the program will create educational materials and information forums that target four arenas for outreach:

- Outreach to local governments, tribes and other policy makers
- Outreach to businesses
- Outreach to existing conservation programs

- Outreach to citizens statewide

The program contains a variety of elements and partners, including the Department of Environmental Quality. One component includes outreach to local governments and other policy makers through presentations and through policy forums where citizens can work together to design local actions. The City of Portland Energy Office will help make the presentations to other local governments. The Oregon Climate Trust will organize the policy forums, using its own resources as a contribution to the program. A video tape will set the stage for the discussions.

A second component includes outreach to businesses through existing energy and air quality programs the state delivers. These programs include the Business Energy Tax Credit, managed by the Office of Energy, and the Clean Air Action Days program, managed by the Department of Environmental Quality. The Air Quality Division is working with the Office of Energy to incorporate a climate change messages related to transportation issues into the coupon marketing campaign it has developed to support Clean Air Action Days. The Department of Environmental Quality is also helping identify businesses interested in participating in greenhouse gas reduction activities.

The third component will provide outreach to three environmental programs as a way to target citizens who are environmentally conscious: CarSharing Portland, the Portland Sustainable Lifestyle Campaign (EcoTeams), and the Oregon Extension Energy Program. These programs will incorporate climate change materials into their existing programs.

The fourth component targets citizens statewide. Outreach to citizens will range from providing them climate change information at major environmental destinations to providing direct information at environmental fairs and other such venues. The information will explain climate change within an Oregon context, describe actions citizens personally can take to do their part, and outline local city- and state-based resources available to help citizens take action.

The Office of Energy and the other partners have begun preparing the video and printed materials and have begun organizing the presentations at various venues. We expect to launch the program to the public in March 1999.

Conclusion

The state's CO_2 standard for new energy facilities was the result of many years of developing climate change policies at the state level. We are successfully implementing the standard, and we expect the Energy Facility Siting Council soon to expand the application of the standard. We are now focusing on educating individuals, businesses and local governments about what they can do to in response to the threat of climate change. We believe there is a need to make it clear to the public what the threat of climate change means to the state and what opportunities exist for people to take actions to reduce greenhouse gas emissions.

Sam Sadler, Oregon Office of Energy, 625 NE Marion Street, Suite 1,Salem, OR 97301-3742
503.373.1034; fax 373.7806; samuel.r.sadler@state.or.us; www.cbs.state.or.us/external/ooe/

Environmental Quality Commission

☐ Rule Adoption Item
☐ Action Item
☒ Information Item

Agenda Item B
December 10/11, 1998 Meeting

Title:

Oxygenated Fuel Program Evaluation in Relation to the Portland Area Carbon Monoxide Maintenance Plan

Summary:

The Portland area carbon monoxide (CO) maintenance plan was adopted by the Commission on July 12, 1996. As part of that adoption, the Commission requested the Department to bring back an informational report after the end of the 1997/1998 winter season discussing the need for continuing the oxygenated fuel program.

The following report discusses the significant decline in ambient CO concentrations over the 1991 - 1997 period and explains the different approaches in safety margin calculations for the various options with and without the oxygenated fuel (oxyfuel) program. The report also compares Puget Sound CO data (since the Puget Sound area eliminated its oxyfuel program in 1996) with that of the Portland area and examines the use of oxygenated fuels on air toxics and greenhouse gas emissions.

The report concludes that the Portland area can maintain the 8-hour CO standard through the year 2007 without oxyfuel with an ample margin of safety, but also notes that there is local support for continuing the program.

Department Recommendation:

Even though there is a strong technical case for repeal, the Department recommends continuation of the oxygenated fuel program in the Portland area for another two winter seasons. Such action would be consistent with continuing local support for the program and would allow for a comprehensive evaluation after the winter of 2000/2001 that includes relevant data from the enhanced inspection program. It is recommended that the Commission accept this report, discuss the matter, and provide advice and guidance to the Department regarding continuation of the Portland area oxygenated fuel program.

Howard W. Harris — Report Author
Gregory A. Green — Division Administrator
Director

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

Date: November 19, 1998

To: Environmental Quality Commission

From: Langdon Marsh, Director

Subject: Agenda Item B, Informational Report: Oxygenated Fuel Program Evaluation in Relation to the Portland Area Carbon Monoxide Maintenance Plan, EQC Meeting December 10/11, 1998

Statement of Purpose

The purpose of this report is to present to the Commission an evaluation of the oxygenated fuel program in the Portland area as it relates to the ten-year, Portland area carbon monoxide (CO) maintenance plan. The Commission adopted the maintenance plan at its July 12, 1996, meeting and directed the Department to bring back an informational report on the need for the oxygenated fuel program after the 1997/1998 winter season.

Background

During the public review of the proposed CO maintenance plan, the continuation of the oxygenated fuel program was the sole contentious issue. The technical analysis for the maintenance plan demonstrated that the 8-hour CO standard could be maintained without oxygenated fuel with a safety margin of 21 percent in 2007. If the program had been eliminated during the winter of 1997/1998, the safety margin would have been 11 percent. Local governments were concerned that the safety margin was not enough in the early years of the plan. However, the petroleum industry argued against continuing the program, based on large costs and the lack of need for the program.

Authority of the Commission with Respect to the Issue

The Commission's authority for action on this issue is contained in Oregon Revised Statutes (ORS) chapter 468A which gives the Commission the authority to adopt plans and programs to achieve and maintain federal and state ambient air quality health standards.

Alternatives and Evaluation

The wintertime oxygenated fuel program has continued to be somewhat controversial, but most of the recent concerns about the program have occurred in southern Oregon. The program still has support from local governments in the Portland area. The Department produced a report evaluating the oxygenated fuel program in the Portland area. Key results of the evaluation are shown in graphical form (Attachment 1), and the full report is contained in Attachment 2. The report analyzes current monitoring data and makes projections to 2007. The report also examines

Puget Sound CO data for the period before and after the oxygenated fuel program was eliminated in the Puget Sound area. The report contrasts the Puget Sound data with the Portland CO data.

Major conclusions from the report follow:

- Ambient CO levels in the Portland area declined significantly from 1991 to 1997, with a 48 percent decrease recorded at the 3rd and Alder monitoring site. This occurred during a burst of economic growth that was basically consistent with the forecast levels of the CO maintenance plan. (Traffic volumes next to the critical CO monitoring site in downtown Portland grew at the rate of 2.2 percent per year to 1996, compared to the maintenance plan forecast of 2.6 percent per year.)

- Seven out of eight Puget Sound CO monitoring sites showed decreases in concentrations after the oxygenated fuel program was eliminated. The large percent increase in CO emissions (greater than 30 percent) predicted by EPA's Mobile5a emission factor model did not result in commensurately higher concentrations of CO in Puget Sound when the program was eliminated.

- The revised analysis of projected CO concentration yielded the same margin of safety (21 percent) without oxygenated fuel in 2007 as originally projected. The revised analysis used actual traffic growth from 1991 to 1996 and then the original forecast rate of growth for the 1996 to 2007 period. The revised projection is based on the second highest 8-hour CO concentration ever recorded at the Postal Building monitor. (The same 1991 baseline concentration was used in the CO maintenance plan). However, based on current monitored CO levels, the safety margin in 2007 would be much greater, approximately 45 percent without oxygenated fuel.

Cost Considerations

In 1996 the Department estimated a consumer-related cost of up to $7.1 million per year, or $0.037 per gallon in the four-county (Clackamas, Multnomah, Washington and Yamhill) area required to sell oxygenated fuel. This consisted of a $4.4 million ($0.023 per gallon) fuel economy loss and a $2.7 million ($0.014 per gallon) incremental cost over conventional gasoline. Based on current fuel consumption and gasoline product prices, with allowance for sub-blending, the Department estimates a cost range of approximately $5.6 million to $6.1 million, or $0.029 to $0.031 per gallon. This consists of a fuel economy loss of approximately $4.7 million ($0.024 per gallon) and an incremental cost range of $960,000 to $1.4 million ($0.005 per gallon to $0.007 per gallon).

Other Considerations

The June 1997 report, "Interagency Assessment of Oxygenated Fuels," by the National Science and Technology Council (NSTC) made the following conclusions:

- Vehicle emission tests show that the CO emission reduction from oxygenated fuels is generally smaller for vehicles with newer pollution control technology.

- The EPA Mobile5a model appears to significantly overestimate the benefits of oxygenated fuels on fleetwide CO emissions.

- Several reviewed studies found reductions in ambient CO that ranged from undetectably small up to approximately ten percent. (By contrast, the Mobile5a model predicts a reduction of 25 percent.)

- Vehicle emission studies show that oxygenated fuels reduce total air toxics emissions, with significant reductions in benzene. California studies have indicated that oxygenated fuels reduce long-term carcinogenic risk on a potency-weighted basis, providing a significant health benefit. However, oxygenated fuels increase the production of toxic aldehydes, known for short-term health effects.

Policy Alternatives

Similar to the range of alternatives considered by the Commission in July 1996, the following three alternatives seem apparent:

1. Repeal the oxygenated fuel program in the Portland area through an immediate follow-up rulemaking and amendment to the Portland CO maintenance plan. EPA approval could allow for removal of the requirement for the 1999/2000 winter season.

2. Continue the program through the winter season of 2000/2001 when the enhanced motor vehicle inspection program will have reached full effectiveness and reevaluate the need for continuation beyond 2000/2001.

3. Continue the present course of keeping the oxygenated fuel program through the life of the CO maintenance plan.

The margin of safety for removal of the oxygenated fuel program is ample, given the current record low levels of ambient CO. The enhanced motor vehicle inspection and maintenance program will be approaching full effectiveness by the winter of 1999/2000 and is expected to be at full effectiveness by the winter of 2000/2001. The enhanced program will substantially replace the emission reductions provided by the oxygenated fuel program. Balancing the strong technical case for elimination of the program, locally elected officials have recently

expressed support for continuation of the program. Consumer acceptance also seems to be high, to the extent that motorists are aware of the program.

Summary of Public Input Opportunity

The public would be expected to provide comment through the normal rulemaking process if the Commission directs the Department to proceed with rulemaking to eliminate the oxygenated fuel program under one of the first two policy alternatives.

Conclusions

There is a strong technical case for eliminating the oxygenated fuel program in the Portland area.

- Ambient CO levels have fallen to record low levels, approximately one-half the health standard level, despite significant traffic growth.
- There is an ample safety margin for maintaining the standard in Portland.
- Vehicle emission tests show that the CO emission reduction from oxygenated fuels is generally smaller for vehicles with newer pollution control technology. These vehicles make up approximately 50 percent of the present Portland area fleet and are growing in numbers as older vehicles are replaced.
- The enhanced motor vehicle inspection and maintenance program will reach full effectiveness by the winter season of 2000/2001, providing nearly the same emissions reduction benefit as oxygenated fuels.
- The cost of the program to Portland area consumers is estimated to be up to $6.1 million, or $0.031 per gallon.

Even though the technical case for elimination appears compelling, the Commission should be aware of continuing local support for the program.

Intended Future Actions

The Department could begin a rulemaking process to eliminate the oxygenated fuel program in the Portland area, depending upon the Commission's discussion and advice on the issue. A public hearing could be held in the latter part of March 1999, with Commission action in June 1999.

Memo To: Environmental Quality Commission
Agenda Item B, Informational Report: Oxygenated Fuel Program Evaluation in Relation to the Portland Area Carbon Monoxide Maintenance Plan, EQC Meeting Page 5

Department Recommendation

Even though there is a strong technical case for repeal, the Department recommends continuation of the oxygenated fuel program in the Portland area for another two winter seasons. Such action would be consistent with continuing local support for the program and would allow for a comprehensive evaluation after the winter of 2000/2001 that includes relevant data from the enhanced inspection program. It is recommended that the Commission accept this report, discuss the matter, and provide advice and guidance to the Department regarding continuation of the oxygenated fuel program in the Portland area.

Attachments

1. Graph of Portland 8-Hour CO Concentrations

2. Evaluation of the Portland Area Oxygenated Fuel Program in Relation to the Portland Area Carbon Monoxide Maintenance Plan, Oregon DEQ, October 1998

Reference Documents (available upon request)

1. Garcia, Nicholas, 1993, Analysis of the Oxygenated Gasoline Program in Washington State. State of Washington Department of Ecology; 94-03 December 1993, Olympia, WA.

2. National Science and Technology Council (NSTC), 1997, Interagency Assessment of Oxygenated Fuels. NSTC, Washington, DC.

3. Health Effects Institute (HEI), 1996, The Potential Health Effects of Oxygenates Added to Gasoline. A Review of the Current Literature. HEI, Cambridge, MA.

Approved:

Section: David L. Hilton For Annette L. Liebe

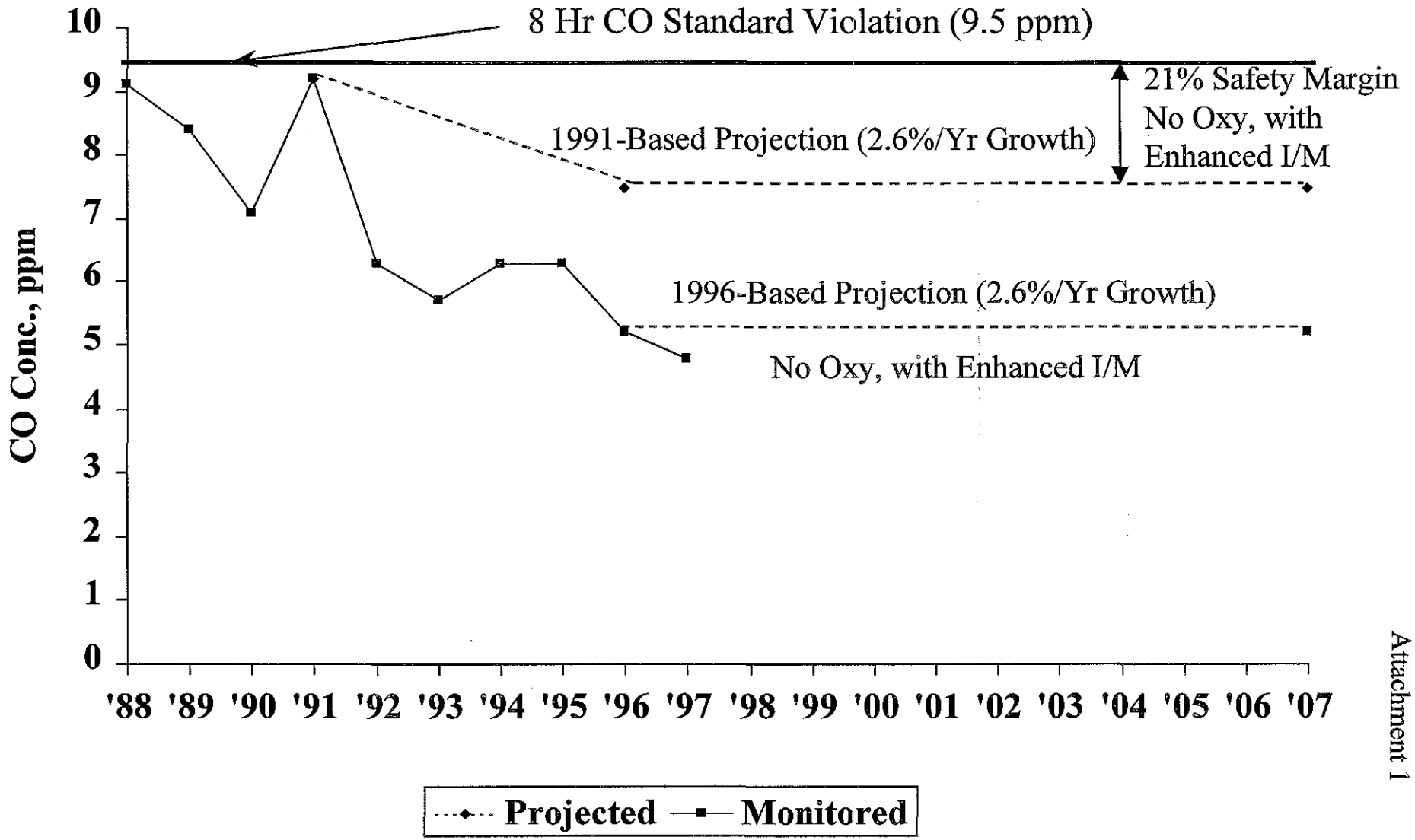
Division: Gregory A. Green

Report Prepared By: Howard Harris

Phone: (503) 229-6086

Date Prepared: November 19, 1998

Portland 8 Hr. CO Concentrations (1988-1997 2nd Highest & Projection to 2007) 3rd & Alder



Attachment 1

EXECUTIVE SUMMARY

The 1990 Federal Clean Air Act Amendments required the Portland area to implement an oxygenated fuel (oxyfuel) program in Clackamas, Multnomah, Washington and Yamhill Counties to control carbon monoxide (CO). During the development of the Portland area CO maintenance plan, the technical analysis showed that CO National Ambient Air Quality Standards (NAAQS) could be maintained without oxyfuel. The Department received testimony both in favor and against continuation of the oxyfuel program. Metro and the city of Portland endorsed a continuation of the program as part of the maintenance plan. At the July 12, 1996, Environmental Quality Commission meeting to consider adoption of the Portland area CO maintenance plan, the Department presented the Commission with a plan containing two sets of numbers, one with oxyfuel through the life of the plan and one with discontinuation after the 1997/1998 winter season. The Commission decided to continue the oxyfuel program for the life of the maintenance plan, but directed the Department to bring back an informational report on the need for continuing the program after the winter of 1997/1998.

This report presents updated CO trend data for downtown Portland, updates CO concentration projections and compares them to the original projections, and analyzes CO monitoring data from the Puget Sound area for the periods before and after the oxyfuel program was eliminated in that part of Washington. This report also briefly examines the effects of oxygenated fuel on air toxics and presents information on greenhouse gas emissions. Based on the trend data, revised projections and analysis of Puget Sound CO data, this report makes the following conclusions:

- Ambient CO concentrations in downtown Portland declined substantially from 1991 to 1997 (a decrease of approximately 48 percent at the 3rd and Alder monitoring site) while the downtown area was experiencing a burst of economic growth.

- An analysis of the two projection approaches showed that a 2007 estimate of 7.5 ppm, or a 21 percent margin of safety, should be viewed as an upper bound estimate. The recent monitoring record and expected emission trend suggest that the 2007, 8-hour CO concentration could very well be less than 7.5 ppm without the oxyfuel program.

- With one exception, the large increase in concentrations to be expected from application of EPA's Mobile5a emission factor model did not materialize after the Puget Sound area eliminated its oxyfuel program. This result is basically consistent with the results of other studies documented in the Interagency Assessment of Oxygenated Fuels.

- The evaluation shows that the Portland area can maintain the 8-hour CO standard through 2007 without oxyfuel.

Evaluation of the Portland Area Oxygenated Fuel Program in Relation to the Portland Area Carbon Monoxide Maintenance Plan

INTRODUCTION

Background

The 1990 Federal Clean Air Act Amendments required the Portland area to implement an oxygenated fuel (oxyfuel) program in Clackamas, Multnomah, Washington and Yamhill Counties to control carbon monoxide (CO). The program was required to be implemented in 1992, even though standard compliance had been achieved by 1991. Wintertime gasoline in Oregon's four oxyfuel control areas must meet a minimum oxygen content of 2.7 percent by weight. During the development of the Portland area CO maintenance plan, the continuation of the program became the sole contentious issue. The Department's maintenance plan showed the CO National Ambient Air Quality Standards (NAAQS) could be maintained without oxyfuel, but with a relatively small margin of safety in the first winter season after elimination.

The oil industry, represented by the Western States Petroleum Association (WSPA), was opposed to continuing the program. WSPA cited costs and the demonstrated lack of need for the program as reasons for opposing continuation. Proponents of the use of ethanol as an oxygenate were in favor of continuing the program, citing health benefits of reduced CO and air toxics. Other recent information suggests that oxyfuel, in the form of ethanol blends, may have greenhouse gas emission reduction benefits in comparison to the production and use of conventional gasoline. Metro and the city of Portland endorsed continuation of the program as part of the CO maintenance plan, at least until the Department's enhanced motor vehicle inspection and maintenance (I/M) program became fully effective. (The emission reduction credits of the oxyfuel program and the enhanced I/M program are similar in magnitude.)

The Portland area CO maintenance plan was considered by the EQC for adoption on July 12, 1996. The plan was prepared with two sets of emission numbers (with and without oxyfuel), since the technical analysis indicated standards maintenance in either case. This gave the Commission complete flexibility to continue or discontinue the oxygenated fuel program, as part of its decision on the maintenance plan rulemaking. As part of its action adopting the maintenance plan, the Commission decided to continue the oxyfuel program through the ten-year maintenance plan, but requested the Department staff to bring back an informational report on the need for continuing the program after the winter of 1997/1998.

Since the critical CO monitoring site for determining long-term compliance with CO NAAQS is in downtown Portland, this report contains updated CO trend data from the downtown Portland CO monitors. Other related trend data, including traffic volumes,

Tri-Met ridership, parking and employment, is also presented and compared to the CO maintenance plan projections. The 8-hour CO concentrations for the critical DEQ hot spot monitoring site at SW 3rd and Alder are also updated and compared to the original projections. The report analyzes CO monitoring data from the Puget Sound area for the period when oxygenated fuel was required (through the winter of 1995/1996 winter) and for the time after the winter of 1995/1996 when the oxyfuel program requirements were eliminated. The various data are evaluated and analyzed from the standpoint of whether the oxyfuel program needs to continue as part of the Portland area CO maintenance plan to assure maintenance of the CO NAAQS.

MONITORING DATA AND OTHER TREND DATA

Downtown CO Monitoring Data

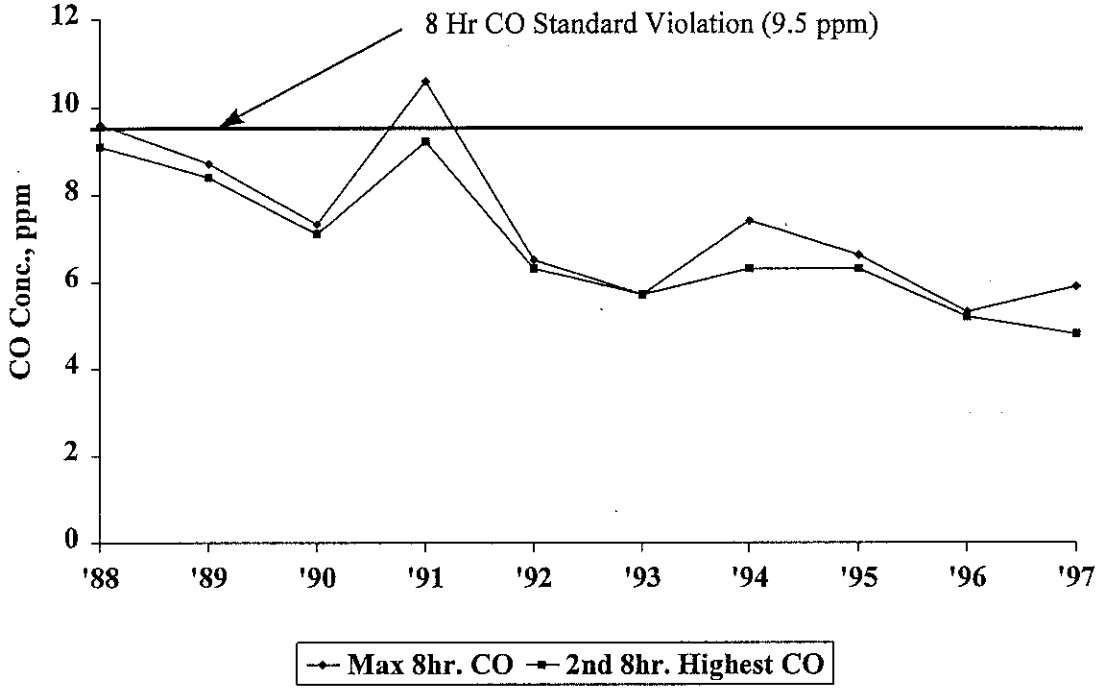
The attainment year for the Portland area CO maintenance plan was 1991. Projections of 8-hour CO concentrations to the year 2007 were based on the 1991, 2nd highest 8-Hour CO concentrations at the DEQ hot spot CO monitoring sites (3rd and Alder, 4th & Alder and 82nd and Division). The critical location is the monitoring site at 3rd and Alder in downtown Portland. This was based on the fact that the 3rd & Alder monitor had the highest CO concentration of the three hot spot sites and also the highest rate of traffic growth (2.6 percent per year). The annual maximum and second highest 8-hour CO concentrations for the downtown CO monitoring sites are tabulated below from 1991 to 1997.

Maximum and Second Highest 8-Hour CO Concentrations (1991-1997)

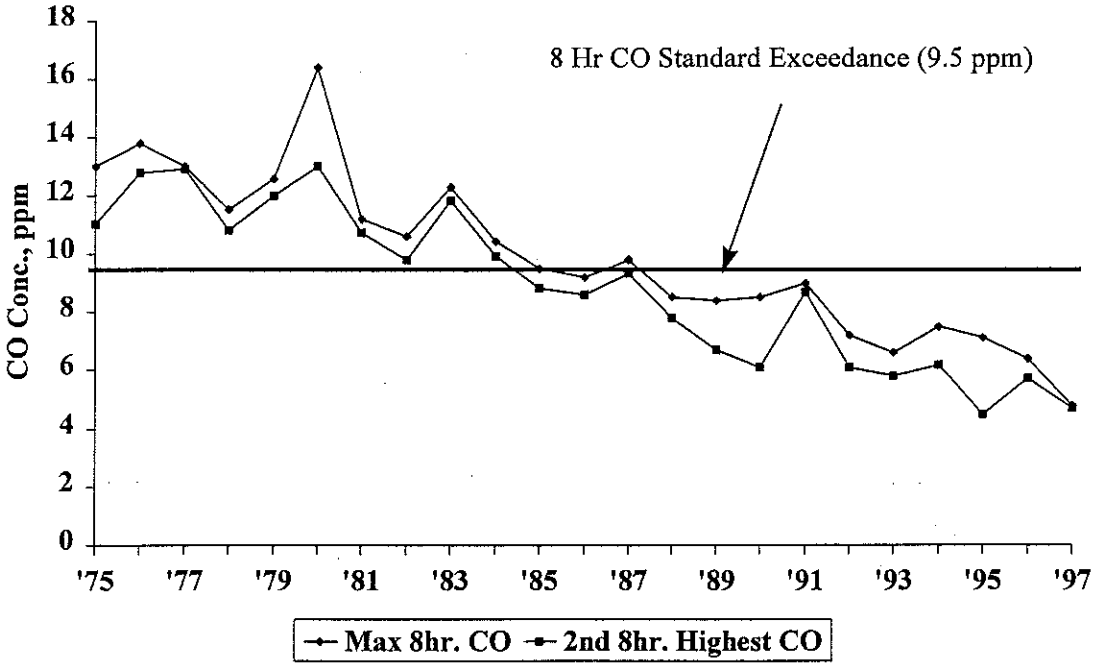
	4th & Alder		3rd & Alder	
Year	Maximum	2nd Highest	Maximum	2nd Highest
1991	9.0	8.7	10.6	9.2
1992	7.2	6.1	6.5	6.3
1993	6.6	5.8	5.7	5.7
1994	7.5	6.2	7.4	6.3
1995	7.1	4.5	6.6	6.3
1996	6.4	5.7	5.3	5.2
1997	4.8	4.7	5.9	4.8

The comparable long-term trends for the downtown Portland CO monitoring sites are shown below. (The 4th and Alder site has been operated since 1975, but the 3rd and Alder site did not start full-seasonal operation until 1988.)

Portland 8 Hr. CO Concentrations (1988-97)
3rd & Alder



Portland 8 Hr. CO Concentrations (1975-97)
4th & Alder



As can be seen from the data, the second highest 8-Hour CO concentrations in downtown Portland are at or near record lows, approximately one-half of the standard exceedance level of 9.5 ppm.

Other Trend Data

Other important transportation and employment statistics for downtown Portland and the Central City area are tabulated below to help put the CO trend in perspective. The last column to the right shows the forecast percent change, taken from the Central City Transportation Management Plan (CCTMP) Study. The CCTMP was primarily used to develop the CO maintenance plan provisions. The CCTMP was based on a high level of economic growth in the downtown for a twenty-year time span. The original consultant-conducted analysis for the CCTMP showed little change in downtown traffic volumes over the twenty-year span of the plan, despite significant economic growth. In consultation with DEQ, the city developed a "worst case" scenario which included more parking and less transit than the original analysis. The numbers for the worst case scenario were incorporated into the CO maintenance plan analysis and are marked by double asterisks in the table shown below.

Transportation/Growth Indicators
(1990 to 1996)

Indicator	1990	1991	1994	1996	Actual Annual % Change	Forecast Annual % Change*
Traffic Growth at SW 3rd & Alder		14,784		16,458	+2.2	+2.6**
Downtown Employment Growth	95,315		102,833		+2.0	+2.2
Downtown Parking	41.780			42,407	+0.2	+0.9**
Tri-Met Ridership	136,400			164,500	+3.5	+3.1
Central City Office Vacancy	17.0%			5.8%	Not Applicable	Not Applicable

* Based on the Portland Central City Transportation Management Plan (1995)
** Portland CCTMP worst case scenario

In the same period that CO levels fell to record low levels, traffic grew at a rate slightly less than the 2.6 percent per year level that was used in the CO maintenance plan analysis for SW 3rd Avenue near the DEQ monitoring site. During this period the parking supply increased by 627 spaces. Under the worst case scenario, the parking supply was assumed to expand by 7,204 spaces, or approximately 0.9 percent per year. Tri-Met ridership, which is still heavily oriented to the Central City area, grew by 21 percent from the 1990 level, an annual rate of 3.5 percent.

Conclusions

Ambient CO levels continued to decline significantly over the 1991 to 1997 period. The record low levels for CO recorded at the downtown DEQ CO monitoring sites occurred while the downtown was experiencing a burst of growth. The overall vacancy rate for downtown leasable office space improved dramatically from the 1990 level to a single digit rate. Traffic growth for SW 3rd Avenue was at a rate slightly less than was utilized in the worst case scenario (high level of traffic and low growth in transit ridership) for the original Central City Transportation Management Plan (CCTMP) CO concentration projections. Tri-Met system ridership grew at a rate slightly above the long-range, high growth forecast of the CCTMP.

REVISED CO CONCENTRATION PROJECTIONS FOR 3RD & ALDER MONITORING SITE

During the original CO maintenance plan development and approval process, some proponents of keeping the oxyfuel program expressed concern as to whether there would be a sufficient margin of safety to prevent a recurrence of CO exceedances if the oxyfuel program were rescinded. The critical 3rd & Alder monitoring site was projected to have a safety margin of 21 percent in 2007 under the CCTMP worst case scenario, without the oxyfuel program.

This projection was revisited, based on two different approaches. The first approach was based on the original 1991 design value (from the 3rd and Alder CO monitor) of 9.2 parts per million (ppm), and the second approach utilized the latest two-year design value of 5.2 ppm from the same site. In the first approach, the actual traffic growth between 1991 and 1996 on SW 3rd Avenue near the monitoring site was used to develop an estimate of actual 1996 CO emissions and a corresponding 1996, 8-hour CO concentration. This estimated 1996, 8-hour CO concentration was then projected to 2007 based on the worst case scenario traffic growth for SW 3rd Avenue (+2.6 percent per year, linear rate). In the second approach, the same level of growth was used, but the latest two-year design value of 5.2 ppm was applied.

First Approach—9.2 ppm, 1991 Design Value

For CO, a design value is determined by the maximum annual second highest 8-hour CO concentration recorded within a two-year period at a monitoring site. The 3rd and Alder CO monitoring site recorded an 8-hour CO concentration of 9.2 ppm on October 11, 1991. To date, this concentration ranks as the largest, annual second highest 8-hour CO concentration ever recorded at the 3rd and Alder CO monitoring site. The 9.2 ppm concentration, therefore, qualified as the design value for the 1990/1991 two-year period and the 1991/1992 two-year period. The 9.2 ppm CO concentration was also the highest concentration recorded at the four permanent monitoring sites maintained by DEQ in the Portland area during 1991.

Once the design value is identified, then traffic data for the corresponding year is needed to project emissions. The city of Portland counted traffic on 32 separate weekdays during 1991 spread over the months from February to December. The counts are detailed in 15-minute segments for every hour of the day. These counts were used to produce an estimate of maximum 8-hour CO emissions corresponding to a 1991 October average weekday. Consistent with the maintenance plan rollforward methodology, the 8-hour traffic period was segmented into a two-hour PM peak period and a six-hour off-peak period. The 1991 off-peak speed of 12.4 miles per hour (mph) for SW 3rd Avenue was used as a base for deriving an estimated 1996 off-peak speed in conjunction with the same arterial time delay function used in the original rollforward analysis. This resulted in an estimated 1996 off-peak speed for SW 3rd Avenue of 12.2 mph.

The PM peak period speed was determined by interpolating the 2.3-mph speed decrease (from 813 vehicles per hour to 1,240 vehicles per hour) calculated by the city of Portland for the original rollforward analysis. This resulted in a 1996 PM peak period speed of 5.9 mph.

Mobile5a CO emission factors were calculated for the 1996 calendar year with oxygenated fuel for the corresponding off-peak and PM peak speeds, resulting in the following CO emission factors:

1996 CO EF @ 12.2 mph w/ Oxyfuel = 33.56 gm/VMT
1996 CO EF @ 5.9 mph w/ Oxyfuel = 61.45 gm/VMT

These CO emission factors were multiplied by the corresponding 1996, 6-hour and 2-hour volumes to yield 1996, 8-hour CO emissions for SW 3rd Avenue of 342,506 gm/mi. The 1996, 8-hour CO concentration, using the 1991 design value, was calculated as follows:

1996 8-hr CO Conc. = (1991 D.V. CO Conc. - Bkgd.)[(1996 8-hr CO Ems)/
(1991 8-hr CO Ems)] + Bkgd.;

where Conc. = Concentration;

Bkgd. = Estimated Background
Ems = Emissions

1996 8-hr CO Conc. = (9.2 ppm - 2.0 ppm)[(342,506 gm/mi)/(449,212 gm/mi)] + 2.0 ppm

= 7.5 ppm.

This estimated 1996, 8-hour CO concentration represents a reduction of 18.5 percent and compares to the actual measured second highest 1996, 8-hour CO concentration of 5.2 ppm.

The 2007, 8-hour CO concentration was estimated by using a ratio of the above calculated 1996, 8-hour CO emissions to the original rollforward analysis 2007, 8-hour CO emissions without oxygenated fuel, but with the reduction credit (approximately 22 percent) for enhanced inspection and maintenance. (The enhanced I/M program almost completely makes up for the emission reduction credit that would be lost if the oxyfuel program were rescinded.) This resulted in an estimated 2007, 8-hour CO concentration of 7.5 ppm, or a 21 percent margin of safety. The calculation is shown below.

2007 8-hr CO Conc. = (1996 CO Conc. - Bkgd.)[(2007 8-hr CO Ems)/(1996 8-hr CO Ems)](0.781) + Bkgd

2007 8-hr CO Conc. = (7.5 ppm-2.0 ppm)[(440,739 gm/mi)/(342,506 gm/mi)](0.781) + 2.0 ppm

= 7.5 ppm

This is identical to the results of the original rollforward analysis.

Second Approach--5.2 ppm, 1996 Design Value

Substitution of the 1996 design value into the above equation yields a 2007, 8-hour CO concentration of 5.2 ppm, a 45 percent margin of safety.

Analysis

The two approaches hinge upon the value of the 1996 CO concentration, i.e., the modeled value of 7.5 ppm versus the monitor-based value of 5.2 ppm. The modeled value in turn is based on the all time, second highest annual monitored concentration at the Postal Building site in downtown Portland (9.2 ppm), which was recorded on October 11, 1991, outside the November to February oxyfuel season. The October 11th, 8-hour maximum was recorded under meteorological conditions marked by a strong inversion, with daytime temperatures reaching the mid-80s, atypical of the November to February period. However, the maximum 8-hour CO concentration for 1991 at the Postal Building site was

10.6 ppm, and it occurred on February 1, 1991. This indicates that the 9.2 ppm design value was reasonably representative, even though it occurred outside the November to February oxyfuel season.

In 1996 the maximum and second highest annual 8-hour CO concentrations at the Postal Building site (5.3 ppm and 5.2 ppm, respectively) occurred during the November to February oxyfuel season. Because the maximum value occurred on February 7, 1996, the meteorology of that day was compared to the meteorology of February 1, 1991, when the all time highest maximum 8-hour CO concentration was recorded at the Postal Building site. Both the February days were characterized by similar meteorological conditions, as measured at the Portland International Airport weather station. The February 1, 1991, 8-hour period had an average wind speed of ten mph and an average temperature of 51 degrees Fahrenheit. The February 7, 1996, 8-hour period had an average wind speed of nine mph and an average temperature of 49 degrees Fahrenheit. This provides strong evidence that the improvement in CO from 1991 to date is not attributable to meteorology.

As a further check on the 1991-1996 improvement in CO at the Postal Building Site, the data record of the other CO monitoring sites in Oregon (twelve sites) was compared for 1991 and 1996 (Appendix). The Postal Building site had the second highest improvement from 1991 to 1996 (a decrease of 43 percent). Klamath Falls improved the most with the second highest 8-hour CO maximum falling by 45 percent. Five sites registered decreases between 28 percent and 37 percent. Four sites showed decreases ranging between six percent and 21 percent. Although the improvement in CO air quality measured at the Postal Building site between 1991 and 1996 was substantial, the experience was not unique.

Based on the last ten years of CO monitoring data in the Portland area, the maximum year to year increase in concentration has been 2.6 ppm. The 1997 annual second highest 8-hour CO concentration at the Postal Building was 4.8 ppm, a record low. An increase of 2.6 ppm would yield 7.4 ppm.

This analysis provides evidence that the modeled 7.5 ppm, 8-hour CO concentration for 2007 should be viewed as an upper bound estimate. The recent monitoring record and expected emission trend suggest that the 2007 8-hour CO concentration could very well be less than 7.5 ppm without the oxyfuel program.

Conclusions

Use of the original design value of 9.2 ppm and updated traffic data to 1996 and the projected growth in the EPA-approved maintenance plan from 1996 yields the same margin of safety (21 percent) without oxygenated fuel in 2007 as originally projected. However, if the latest actual CO data is used along with the maintenance plan projected growth, then the margin of safety would be 45 percent without oxygenated fuel in 2007.

The analysis of the two estimates shows other CO sites improved substantially between 1991 and 1996, indicating that the improvement was not unique to the 3rd and Alder site. The improvement in the level of concentrations also does not appear to be attributable to meteorology. The 7.5 ppm modeled result should, therefore, be viewed as an upper bound estimate of the 2007, 8-hour CO concentration.

COMPARISON OF PUGET SOUND CO MONITORING DATA WITH AND WITHOUT OXYGENATED FUEL TO PORTLAND CO MONITORING DATA

Oregon and Washington began operating wintertime oxygenated fuel programs in November 1992. While Oregon still operates the program in four areas of the State, Washington eliminated its program from the Puget Sound (Seattle, Tacoma and Everett) and Vancouver areas, through the submittal of CO maintenance plans approved by EPA in 1996. For these areas, the wintertime program was no longer required as of the 1996/1997 season.

In December 1993 the Washington Department of Ecology (DOE) published a report analyzing the oxygenated gasoline program in Washington State. The purpose of the report was to examine the effectiveness of the oxygenated fuel program, to assess the long-term need for the program and to make recommendations on the question of expanding the geographic coverage of the program. The study made the following key conclusions/recommendations:

- Oxygenated gasoline reduced CO levels above the standard, reducing peak CO levels by approximately one part per million (ppm).

- New federal regulatory initiatives should further limit CO emissions, perhaps bringing the nonattainment areas into compliance without oxygenated gasoline.

- The geographic coverage of the program should not be expanded to all of western Washington.

The last recommendation was based on a conclusion that CO concentrations below the level of the federal standard posed no known adverse health effects, and the available evidence indicated that CO concentrations (outside the nonattainment areas) were below the standard level and falling. A key technical finding from the study was that oxygenated gasoline apparently had no discernible effect when CO levels were four to six ppm or lower.

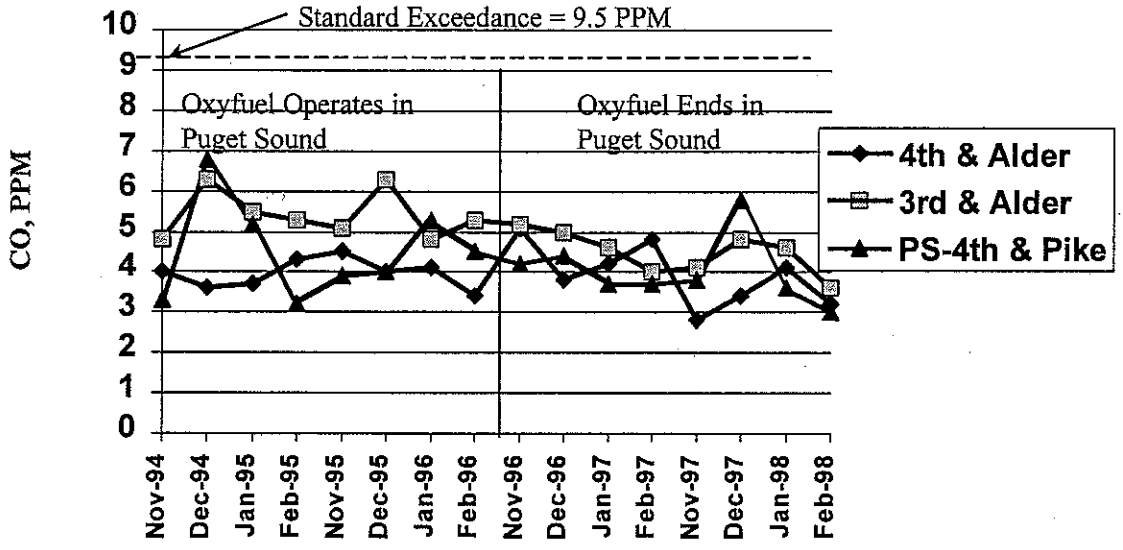
In 1997 the National Science and Technology Council (NSTC) published a report, "Interagency Assessment of Oxygenated Fuels." This report assessed the body of knowledge concerning the air quality effects of wintertime oxygenated fuel, water quality effects, fuel economy/engine performance effects, and potential health effects. Of direct

relevance to this evaluation, the NSTC report indicated that researchers had identified up to a ten percent reduction in ambient CO attributable to operation of an oxygenated fuel program. The report also noted that variations in meteorology make it difficult to measure small changes in CO on the order of ten percent.

With the NSTC and Washington DOE studies as valuable sources of background information on the effects of the oxygenated fuel program, DEQ conducted a comparison of the Portland area CO data with the Puget Sound area CO data for the two winter seasons prior to the time that Washington stopped operating the program in the Puget Sound area and the subsequent two winter seasons (with validated CO data through February 1998). Washington DOE furnished the Department with monthly maximum 8-hour CO concentrations for the Puget Sound CO monitoring network (eight separate sites). Technical Services provided comparable data for the four Portland area CO monitors. (The Portland and Puget Sound data is shown in the Appendix.) The analysis was based on a comparison of the two winter seasons before Washington eliminated the requirement (1994/1995 and 1995/1996) with the winters of 1996/1997 and 1997/1998. The monthly maximums for the period from 1994 to February 1998 are shown below for the two downtown Portland CO monitors and the 4th and Pike CO monitor in downtown Seattle.

Comparison of Downtown Portland CO Monitors to 4th & Pike CO Monitor in Downtown Seattle

(Monthly Maximum 8-Hour Concentrations Nov. 94 to Feb. 98)



Seasonal averages of the monthly maximum 8-hour CO concentrations were computed for each of the Puget Sound CO monitoring sites for the 1994-1996 period (eight months

of data) and then compared with eight months of validated data from the post-oxygenated fuel period to February 1998. The results for the Puget Sound area CO monitors are tabulated below.

Puget Sound CO Monitoring Network
Comparison of Monthly 8-Hour CO Maximums
without Oxyfuel (1996-1998) and with Oxyfuel (1994-1996)

Site	Avg 96-98 CO Conc.	Avg 94-96 CO Conc.	%Diff. of Avg 96-98 to Avg 94-96
Pacific Ave. Tacoma	5.4	6.0	-10.0 %
Bellevue	4.5	4.9	-8.2 %
4th & Pike	4.0	4.5	-11.1 %
James St.	4.3	3.8	+13.2 %
Bellevue, 8th & 108th	5.5	6.0	-8.3 %
Northgate	4.7	4.9	-4.1 %
Nev. Bob's, Everett	4.4	5.3	-17.0 %
Zanadu	5.7	6.1	-6.6 %

The eight-month averages of the 8-Hour maximums for the first two seasons without oxyfuel showed decreases at seven of the eight stations. The James St. station registered an increase of 13 percent. At the other stations, the decrease in average concentration ranged from four percent to 17 percent.

The Bellevue, 8th & 108th station had the highest 8-Hour maximums, with two measurements above 9 ppm: December 1994 (9.3 ppm) and January 1995 (9.7 ppm), the latter a standard exceedance. Since the effects of oxygenated fuel on ambient CO concentrations are most likely to be in evidence at elevated levels approaching the standard level, the Bellevue, 8th & 108th monitoring station should be a good indicator. This monitoring site decreased in concentration, even though the Mobile5a projected an increase in CO emissions due to elimination of the oxygenated fuel program.

Based on the Mobile5a CO emission factors for 1995 with oxygenated fuel and 1997 without oxygenated fuel, CO emissions would have increased by approximately 17 percent, or more, depending upon the level of traffic growth. Only one of the Puget Sound area sites (James St.) showed an increase approaching that magnitude, and the CO

levels at this site were well below the 6.0 ppm threshold at which the Washington DOE was able to detect the effects of the oxyfuel program.

Comparable data for the Portland area CO monitors is tabulated below, showing the percent difference between the respective 1996-1998 averages versus the 1994-1996 averages.

Portland Area CO Monitoring Network
Comparison of Monthly 8-Hour CO Maximums
(1996/97-1997/98 Seasons versus 1994/95-1995/96 Seasons)

Site	Avg 96-98 CO Conc.	Avg 94-96 CO Conc.	% Diff. of Avg 96-98 to Avg 94-96
SE Lafayette	3.0	4.2	-28.6 %
82nd & Division	4.4	5.5	-20.0 %
4th & Alder	3.9	4.0	-2.5 %
Postal	4.5	5.4	-16.7 %

With the exception of the 4th & Alder CO monitor, which was little changed, the other Portland area monitoring sites showed substantial percent declines for the 1996/97 and 1997/98 winter periods versus the 1994/95 and 1995/96 periods. EPA's mobile5a emission factor model indicates that the two-year change in fleet emission rate, with the oxyfuel program in place, from 1995 to 1997 should have resulted in approximately a six percent decrease, after accounting for a 2.2 percent per year traffic growth. In general, the decreases for the Portland monitoring sites are larger than what the modeled changes in fleet emissions alone would explain.

Since the decreases in concentration were larger than could be explained by EPA's Mobile5a model, wind speed data from the Portland International Airport weather station was analyzed to see if meteorology might explain the larger than expected decreases in concentrations. The 1994/1995 winter period was selected for comparison with the 1996/1997 winter period, because the 1994/1995 data contained two annual maximum 8-hour CO concentrations and two annual second highest 8-hour CO concentrations. Wind speeds were matched approximately to the actual 8-hour CO period for the day of maximum monthly 8-hour CO concentration. (The U.S. Weather Service wind speed data is reported in three-hour intervals, so for some of the monthly maximum periods four, three-hour wind speeds were used instead of three reported wind speeds encompassing nine hours.) The threshold wind speed reported by the U.S. Weather Service is 3 miles per hour (mph), or 3 knots (in older data).

For the analysis, three wind speed groups were tallied: 1) less than or equal to 4 mph; 2) greater than 4 mph and less than or equal to 6 mph; and 3) greater than 6 mph. Each of the two winter season periods had a maximum of 16 possible separate days (4 sites times

4 months). However, because some sites recorded maximum monthly concentrations on the same day, there were fewer unique 8-hour periods. The 1994/1995 winter period had twelve separate days of non-overlapping 8-hour periods. The 1996/1997 winter period had fifteen separate days of non-overlapping 8-hour periods. The comparisons are tabulated below.

Comparison of Wind Speed Data (1994/1995 to 1996/1997) for Monthly Maximum Days at Four Portland CO Monitoring Sites

Winter Season		1994/1995			1996/1997	
Wind Speed Group	≤ 4 mph	> 4 mph ≤ 6 mph	> 6 mph	≤ 4 mph	> 4 mph ≤ 6 mph	> 6 mph
No. of Unique Days	4	2	6	6	2	7

For the 1994/1995 winter period, four of the monthly maximum 8-hour CO concentrations had wind speeds equal to or less than 4 mph; two of the monthly maximums occurred with wind speeds between 4 mph and 6 mph; and six of the monthly maximums had wind speeds greater than 6 mph. For the 1996/1997 winter period, six of the monthly maximum 8-hour CO concentrations occurred when wind speeds were less than or equal to 4 mph; two of the monthly maximums occurred with wind speeds between 4 mph and 6 mph; and seven of the monthly maximums had wind speeds greater than 6 mph.

Based on the wind speed analysis, each winter period had a similar number of low wind speed conditions on which monthly maximum 8-hour CO concentrations were recorded. Therefore, meteorology would not appear to explain why relatively substantial decreases were observed for three of the four Portland CO monitors.

Conclusions

With the exception of one site out of a total of eight separate sites, the expected increases in Puget Sound CO concentrations, after the elimination of the oxygenated fuel program, did not materialize. The Puget Sound site with the highest concentrations (Bellevue, 8th and 108th) did not exhibit an increase commensurate with the change projected by EPA's Mobile5a emission factor model. Although the Portland CO data was fairly consistent in showing continuing decreases in CO concentrations, the magnitude of the decreases was larger than could be explained by the change in fleet emissions. This could have been due to different meteorological conditions, but a comparison of the 1994/1995 winter days to the 1996/1997 winter maximum days indicated similar wind speed conditions.

OTHER CONSIDERATIONS

Air Toxics

This section briefly examines the issue of air toxics in relation to oxygenated fuels. Gasoline motor vehicle fuel is a complex mixture of chemicals that result from refining crude oil and any post-refining additions of other chemicals, such as oxygenates. In recent years there has been a focus on reducing the amount of toxic compounds in ambient air. Benzene and 1,3-butadiene are highly toxic constituents of gasoline. A number of studies have documented the fact that the addition of oxygenates to gasoline reduces benzene and to a lesser extent, 1,3-butadiene over non-oxygenated gasoline.

The Interagency Assessment of Oxygenated Fuels examined a number of vehicle emission studies and various model predictions to summarize the effects of oxygenated fuels on air toxics (benzene, 1,3-butadiene and aldehydes) in addition to the criteria pollutants. The report summarized the results of the Auto/Oil AQIRP study showing emission changes associated with the oxygenates, ethanol, methyl tertiary butyl ether (MTBE) and ethyl tertiary butyl ether (ETBE). The report notes that an important effect of fuel oxygenates is the dilution of toxics, such as benzene. Refiners may also choose to reduce benzene and other aromatics by substituting oxygenate to achieve the same octane level of the finished fuel, otherwise provided by the aromatics. Based on the vehicle emission studies examined, the report concluded that fuel oxygenates decrease the emissions of benzene and 1,3-butadiene, but increase the emissions of aldehydes. On a mass emissions basis, total air toxics are reduced by the addition of oxygenates. However, the Interagency Assessment of Oxygenated Fuels also noted that the effects of oxygenated fuels on ambient air concentrations of pollutants other than CO (air toxics, e.g.) are uncertain.

The Health Effects Institute (HEI) in an April 1996 report reached the same conclusion on air toxics as the Interagency Assessment of Oxygenated Fuels, citing the Auto/Oil AQIRP study and a 1993 study by Noorman which examined a fleet of 1989-1991 vehicles with fuels meeting federal Reformulated Gasoline standards and various oxygenates at 2.7 percent oxygen by weight. The HEI report identified the need for additional research in the areas of exposure assessment, metabolism and disposition of MTBE, short-term effects of oxygenates using sensitive individuals, long-term effects of MTBE, developmental effects of MTBE, and a comprehensive plan to research the health effects of other ethers.

Greenhouse Gas Emissions

Ethanol is a renewable oxygenate, predominately made from corn feedstock in the U.S. Midwest. Based on its renewable nature, there is a potential to reduce the amount of net carbon added to the atmosphere from combusting fuels containing ethanol. A number of studies have been conducted to examine the potential of the corn-to-ethanol fuel cycle to reduce greenhouse gases. A recent study conducted by the Center for Transportation Research, Argonne National Laboratory, Wang et al. (1997) examined the corn-ethanol fuel cycle in the upper Midwest (Illinois, Iowa, Minnesota and Nebraska). An evaluation of these studies is beyond the scope of this paper, but the range of results from previous studies and Wang et al. are presented for informational purposes.

The Wang et al. study tabulated the results of eight previous studies for fuels containing 85 percent (E85) to 100 percent (E100) ethanol with various production technologies (e.g., coal-fired, natural gas-fired process heat) and compared them to conventional gasoline motor vehicle fuel. The cited changes in the production of greenhouse gas emissions ranged from minus 70 percent to plus 80 percent. The Wang et al. study concluded that an E85 fuel reduces greenhouse gases by 42 percent to 48 percent, with a smaller reduction of two to three percent for the E10 fuel. For perspective, wintertime fuel in oxyfuel control areas in Oregon contains approximately eight percent ethanol.

The results of the various studies are sensitive to assumptions on technology of the production cycle and co-product energy use attribution, i.e., how much of the total process energy is assigned to other valuable corn products that are produced in the milling process. The Wang et al. study also found that the greenhouse gas emissions results are sensitive to the conversion of applied fertilizer to nitrous oxide emissions.

SUMMARY AND CONCLUSIONS

This evaluation of the oxyfuel program in the Portland area presented CO ambient trend data, traffic and economic trend data, revised CO concentration projections, and a comparison of Puget Sound CO monitoring data with and without oxygenated fuel to Portland CO monitoring data (November1994 to February 1998). Ambient CO levels in the Portland area declined substantially from 1991 to 1997 (a decrease of approximately 48 percent at the 3rd and Alder monitoring site). During this time period, downtown Portland was experiencing a burst of economic growth, as evidenced by the increase in employment and the decrease in office vacancy.

The projected 8-hour CO concentration for the year 2007 at the critical 3rd and Alder CO site was determined in two different ways. In the first approach the original 1991 design value of 9.2 ppm was projected to 1996, based on actual growth and then projected to 2007 based on the growth forecast of the CO maintenance plan. In the second approach, the actual 1996 second annual highest 8-hour CO concentration from the 3rd and Alder CO site was projected to 2007 using the same growth forecast. The first approach yielded

an 8-hour CO concentration of 7.5 ppm, a safety margin of 21 percent, which is identical to the projection contained in the CO maintenance plan. The second approach yielded a safety margin of 45 percent. An analysis of the two approaches showed that the first approach should be viewed as an upper bound estimate of the 2007, 8-hour CO concentration.

The Department compared Puget Sound CO data at eight sites to Portland CO data at four permanent sites. With the exception of one site, the Puget Sound sites showed season over season decreases in concentration after the oxyfuel program was eliminated. The Portland area CO sites showed continuing decreases in CO concentrations, but the change was larger than could be explained by the decrease in motor vehicle emissions. Meteorological conditions under which the maximums occurred appeared to be similar.

The Department examined the effects of oxygenated fuel on air toxics, indicating that total air toxics emissions are reduced in comparison to conventional fuel, but that aldehydes are increased. Information was also presented on the corn-ethanol fuel production cycle with respect to greenhouse gases, indicating a range of study results.

This evaluation of the wintertime oxyfuel program and its relationship to long-term maintenance of the 8-hour CO standard in the Portland area indicates that the Portland area can maintain the 8-hour CO standard through 2007 without oxyfuel. The margin of safety would be at least 21 percent, and possibly much larger, based on current ambient levels. The large increase in concentrations that one might expect from application of EPA's Mobile5a emission factor model did not, with one exception, materialize after the Puget Sound area eliminated its oxyfuel program. This result is basically consistent with the results of other studies documented in the Interagency Assessment of Oxygenated Fuels.

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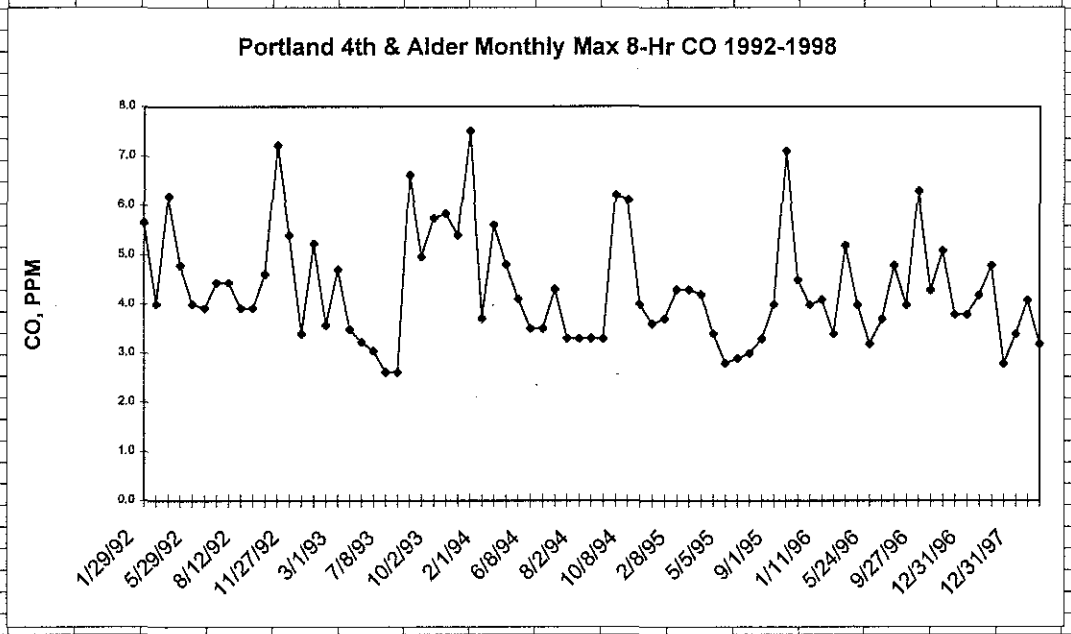
APPENDIX

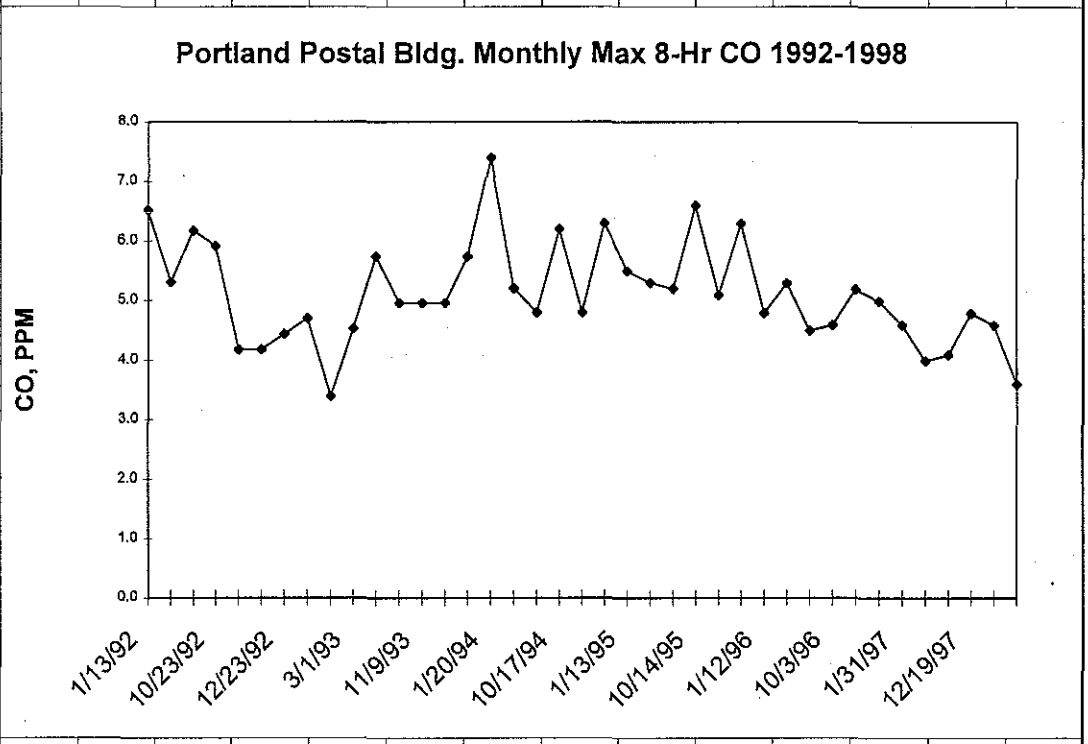
State Network of CO Sites: Comparison of 1991 to 1996 Max and 2nd Highest 8-Hour CO							
Site	1991 Max	1991 2nd High	1996 Max	1996 2nd High	% Reduction from 1991 in Max	% Reduction from 1991 in 2nd High	Note: A minus percentage indicates an increase
Bend	7.4	6.9	4.9	4.8	33.78378378	30.4347826	
Eugene-Lane	5.5	5.4	4.6	4.6	16.36363636	14.8148148	
Eugene-Sacred	7.9	6.7	6.5	6.3	17.72151899	5.97014925	
Grants Pass	9.2	9	6.4	6	30.43478261	33.3333333	
Klamath Falls	9.8	8.8	4.9	4.8	50	45.4545455	
Medford-Brophy	8.3	8.1	8.6	6.4	-3.61445783	20.9876543	Note: Increase due to Classic Car Rally
Medford-RVMall	11.9	10.5	6.7	6.6	43.69747899	37.1428571	
Portland-4th & Alder	9	8.7	6.4	5.7	28.88888889	34.4827586	
Portland-Postal	10.6	9.2	5.3	5.2	50	43.4782609	
Portland-82nd	10.2	9	6.6	6.5	35.29411765	27.7777778	
Portland-SEL	8.4	8.1	5.4	5.2	35.71428571	35.8024691	
Salem	9.8	8	7.8	7.1	20.40816327	11.25	

State Network of CO Sites: Comparison of 1991 to 1997 Max and 2nd Highest 8-Hour CO							
Site	1991 Max	1991 2nd High	1997 Max	1997 2nd High	% Reduction from 1991 in Max	% Reduction from 1991 in 2nd High	Note: A minus percentage indicates an increase
Bend	7.4	6.9	5.9	5.6	20.27027027	18.8405797	
Eugene-Lane	5.5	5.4	4.8	4.7	12.72727273	12.962963	
Eugene-Sacred	7.9	6.7	5.2	5.2	34.17721519	22.3880597	
Grants Pass	9.2	9	5.3	5.1	42.39130435	43.3333333	
Klamath Falls	9.8	8.8	5.3	5.1	45.91836735	42.0454545	
Medford-Brophy	8.3	8.1	7.3	5.7	12.04819277	29.6296296	Note: Max 8-Hr occurred on 6/14 due to Classic Car Rally
Medford-RVMall	11.9	10.5	6.3	5.7	47.05882353	45.7142857	
Portland-4th & Alder	9	8.7	4.8	4.7	46.66666667	45.9770115	
Portland-Postal	10.6	9.2	5.9	4.8	44.33962264	47.826087	
Portland-82nd	10.2	9	5.1	4.5	50	50	
Portland-SEL	8.4	8.1	4.1	3.6	51.19047619	55.5555556	
Salem	9.8	8	6.2	5.3	36.73469388	33.75	

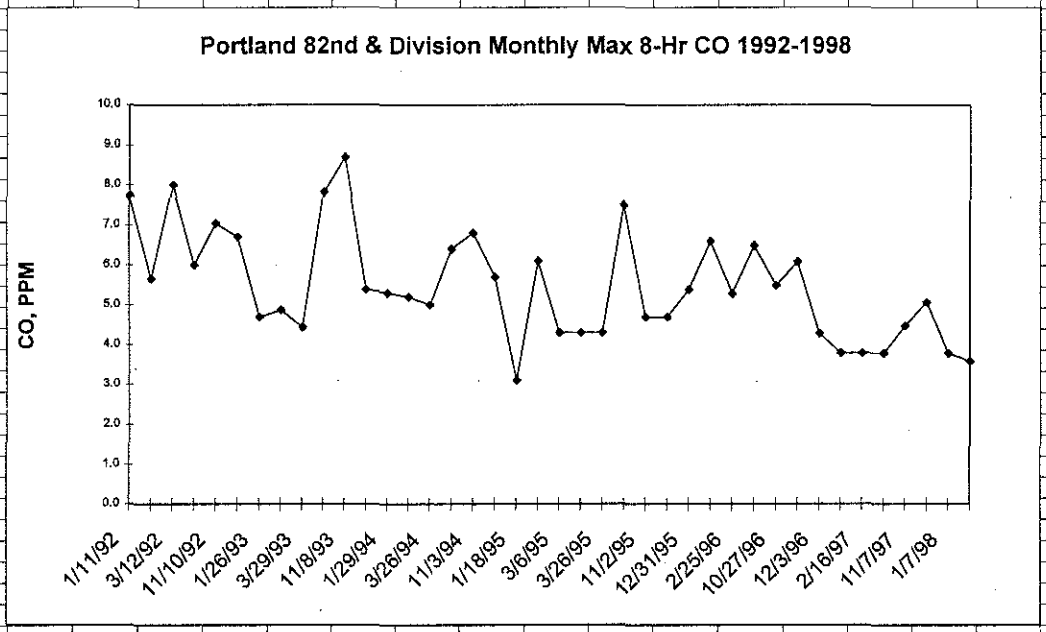
Date	Monthly Max 8-Hr CO, PPM
1/29/92	5.7
2/19/92	4.0
3/12/92	6.2
4/1/92	4.8
5/29/92	4.0
6/5/92	3.9
7/17/92	4.4
7/30/92	4.4
8/12/92	3.9
8/14/92	3.9
9/30/92	4.6
10/23/92	7.2
11/27/92	5.4
12/9/92	3.4
1/25/93	5.2
2/22/93	3.6
3/1/93	4.7
4/2/93	3.5
5/10/93	3.2
6/4/93	3.0
7/8/93	2.6
7/30/93	2.6
8/22/93	6.6
9/27/93	5.0
10/2/93	5.7
11/10/93	5.8
12/9/93	5.4
1/20/94	7.5
2/1/94	3.7
3/28/94	5.6
4/15/94	4.8
5/5/94	4.1
6/8/94	3.5
6/10/94	3.5
7/20/94	4.3
8/1/94	3.3
8/2/94	3.3
8/10/94	3.3
8/26/94	3.3
9/22/94	6.2
10/8/94	6.1
11/15/94	4.0
12/17/94	3.6
1/13/95	3.7
2/8/95	4.3
2/9/95	4.3
3/30/95	4.2
4/22/95	3.4
5/5/95	2.8
6/8/95	2.9
7/17/95	3.0
8/31/95	3.3
9/1/95	4.0
10/14/95	7.1
11/14/95	4.5
12/29/95	4.0
1/11/96	4.1
2/9/96	3.4
3/1/96	5.2
4/4/96	4.0
5/24/96	3.2
6/6/96	3.7
7/11/96	4.8
8/14/96	4.0
9/27/96	6.3
10/31/96	4.3
11/8/96	5.1
12/3/96	3.8
12/31/96	3.8
1/30/97	4.2
2/24/97	4.8
11/21/97	2.8
12/31/97	3.4
1/16/98	4.1
2/27/98	3.2



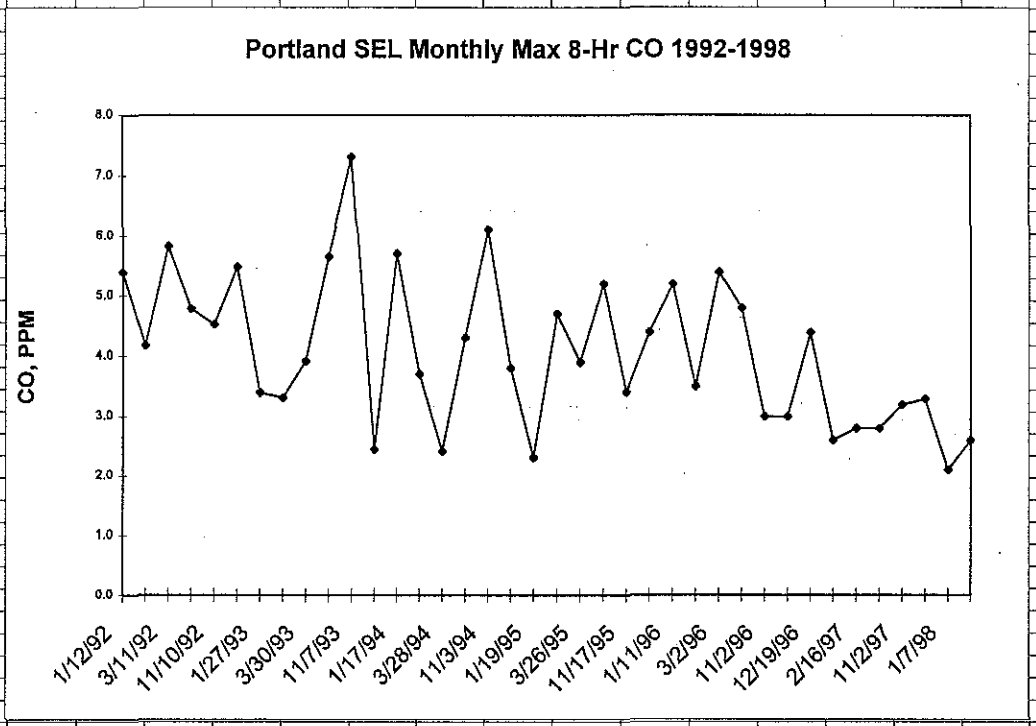
Date	Monthly Max 8-Hr CO, PPM
1/13/92	6.5
2/11/92	5.3
3/12/92	6.2
10/23/92	5.9
11/6/92	4.2
11/11/92	4.2
12/23/92	4.4
1/19/93	4.7
2/24/93	3.4
3/1/93	4.5
10/2/93	5.7
11/8/93	5.0
11/9/93	5.0
11/29/93	5.0
12/9/93	5.7
1/20/94	7.4
2/17/94	5.2
3/27/94	4.8
10/17/94	6.2
11/14/94	4.8
12/16/94	6.3
1/13/95	5.5
2/9/95	5.3
3/3/95	5.2
10/14/95	6.6
11/16/95	5.1
12/17/95	6.3
1/12/96	4.8
2/7/96	5.3
3/1/96	4.5
10/3/96	4.6
11/11/96	5.2
12/19/96	5.0
1/31/97	4.6
2/11/97	4.0
11/4/97	4.1
12/19/97	4.8
1/16/98	4.6
2/19/98	3.6



Date	Monthly Max 8-Hr CO, PPM
1/11/92	7.7
2/23/92	5.7
3/12/92	8.0
10/12/92	6.0
11/10/92	7.0
12/16/92	6.7
1/26/93	4.7
2/24/93	4.9
3/29/93	4.4
10/28/93	7.8
11/8/93	8.7
12/4/93	5.4
1/29/94	5.3
2/10/94	5.2
3/26/94	5.0
10/8/94	6.4
11/3/94	6.8
12/7/94	5.7
1/18/95	3.1
2/10/95	6.1
3/6/95	4.3
3/7/95	4.3
3/26/95	4.3
10/15/95	7.5
11/2/95	4.7
11/3/95	4.7
12/31/95	5.4
1/11/96	6.6
2/25/96	5.3
3/2/96	6.5
10/27/96	5.5
11/8/96	6.1
12/3/96	4.3
1/8/97	3.8
2/16/97	3.8
2/20/97	3.8
11/7/97	4.5
12/31/97	5.1
1/7/98	3.8
2/26/98	3.6



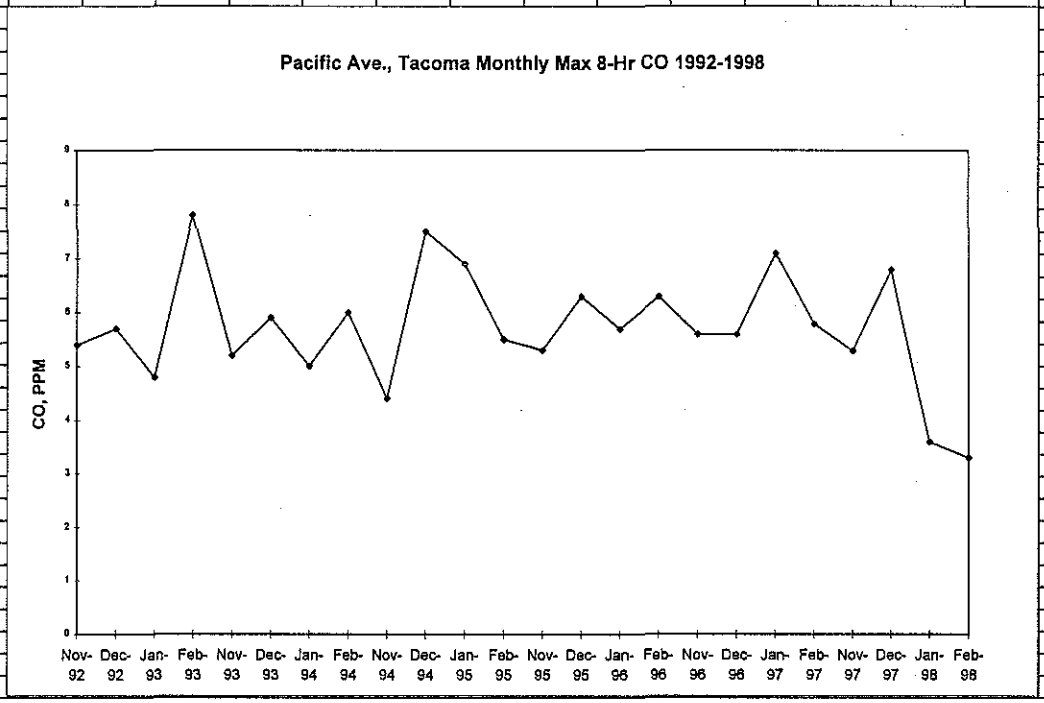
Date	Monthly Max 8-Hr CO, PPM
1/12/92	5.4
2/23/92	4.2
3/11/92	5.8
10/12/92	4.8
11/10/92	4.5
12/16/92	5.5
1/27/93	3.4
2/13/93	3.3
3/30/93	3.9
10/28/93	5.7
11/7/93	7.3
12/25/93	2.4
1/17/94	5.7
2/10/94	3.7
3/28/94	2.4
10/19/94	4.3
11/3/94	6.1
12/29/94	3.8
1/19/95	2.3
2/10/95	4.7
3/26/95	3.9
10/15/95	5.2
11/17/95	3.4
12/31/95	4.4
1/11/96	5.2
2/25/96	3.5
3/2/96	5.4
10/27/96	4.8
11/2/96	3.0
11/3/96	3.0
12/19/96	4.4
1/9/97	2.6
2/16/97	2.8
2/21/97	2.8
11/2/97	3.2
12/31/97	3.3
1/7/98	2.1
2/26/98	2.6



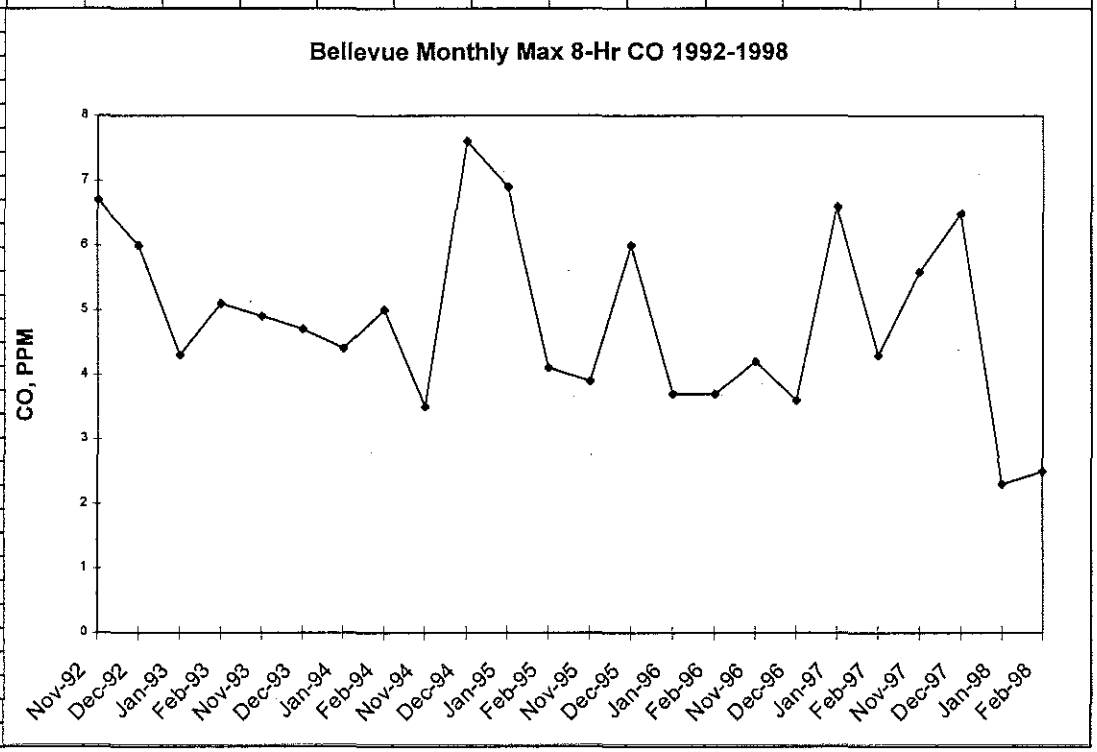
Puget Sound Monthly Maximum 8-Hour CO Concentrations from November 1992 to February 1998 (Data in PPM)

Date	Pacific Avenue, Tacoma	Bellevue	4th & Pike	James St.	Northgate	Nevada Bob's, Everett	Zanadu	Bellevue, 8th & 108th
Nov-92	5.4	6.7	3.6	4.2	5.5	5.7	6.9	
Dec-92	5.7	6.0	4.4	4.7	5.2	5.3	7.2	
Jan-93	4.8	4.3	4.2	4.7	5.0	6.1	6.7	
Feb-93	7.8	5.1	5.9	5.9	5.2	6.2	6.2	
Nov-93	5.2	4.9	3.8	4.8	5.1	5.3	5.3	
Dec-93	5.9	4.7	5.6	4.8	5.8	5.9	6.2	
Jan-94	5	4.4	5.2	6.1	4.9	5.8	6.8	
Feb-94	6	5.0	3.6	3.9	4.5	5.5	5.0	
Nov-94	4.4	3.5	3.3	4.0	4.0	4.7	4.7	4.7
Dec-94	7.5	7.6	6.8	3.1	7.1	7.0	8.2	9.3
Jan-95	6.9	6.9	5.2	M	5.9	6.5	8.1	9.7
Feb-95	5.5	4.1	3.2	4.0	4.0	4.9	4.7	5.3
Nov-95	5.3	3.9	3.9	4.0	4.5	5.5	6.0	5
Dec-95	6.3	6.0	4.0	3.8	6.1	6.0	5.7	6.2
Jan-96	5.7	3.7	5.3	3.7	3.7	4.0	4.9	3.8
Feb-96	6.3	3.7	4.5	3.9	4.2	4.0	6.5	4.3
Nov-96	5.6	4.2	4.2	4.2	4.4	5.2	5.6	4.8
Dec-96	5.6	3.6	4.4	5.6	4.9	4.9	6.8	5.7
Jan-97	7.1	6.6	3.7	4.6	6.0	4.2	6.7	8.6
Feb-97	5.8	4.3	3.7	4.8	4.7	3.8	5.5	5.7
Nov-97	5.3	5.6	3.8	4.7	4.8	4.3	5.8	6.3
Dec-97	6.8	6.5	5.8	3.5	6	5.4	6.5	6.3
Jan-98	3.6	2.3	3.6	3.8	3.3	3.7	4.4	3.2
Feb-98	3.3	2.5	3	3.4	3.2	3.4	4.1	3.1

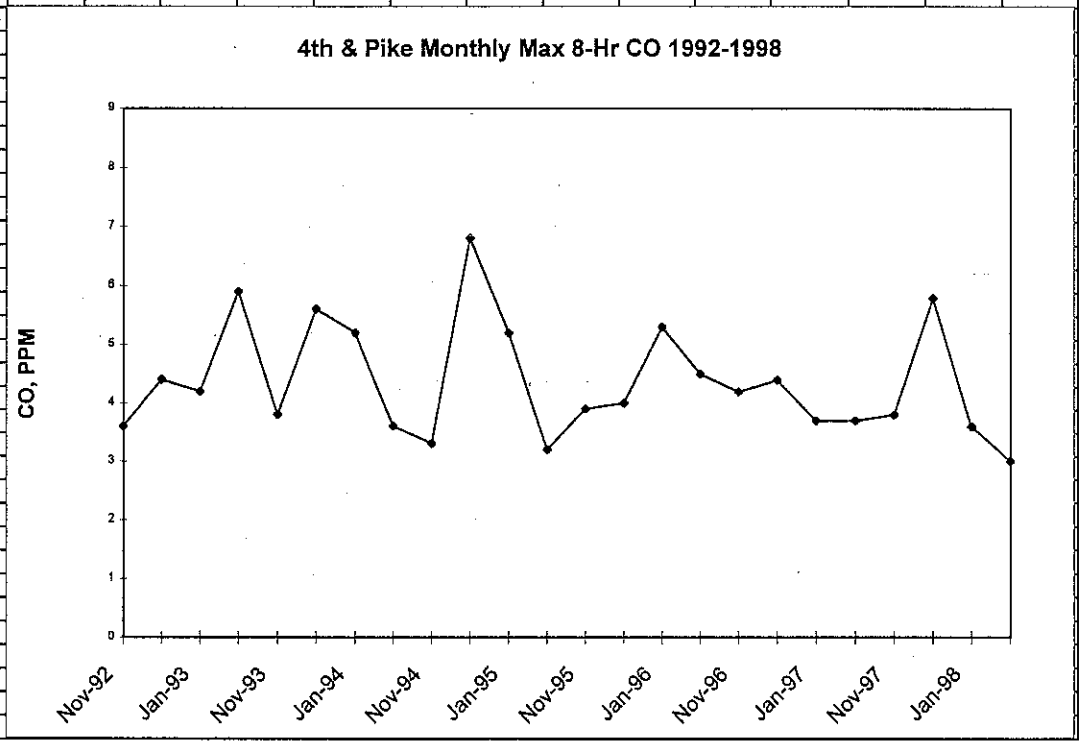
Date	Monthly Max 8-Hr CO, PPM
Nov-92	5.4
Dec-92	5.7
Jan-93	4.8
Feb-93	7.8
Nov-93	5.2
Dec-93	5.9
Jan-94	5
Feb-94	6
Nov-94	4.4
Dec-94	7.5
Jan-95	6.9
Feb-95	5.5
Nov-95	5.3
Dec-95	6.3
Jan-96	5.7
Feb-96	6.3
Nov-96	5.6
Dec-96	5.6
Jan-97	7.1
Feb-97	5.8
Nov-97	5.3
Dec-97	6.8
Jan-98	3.6
Feb-98	3.3



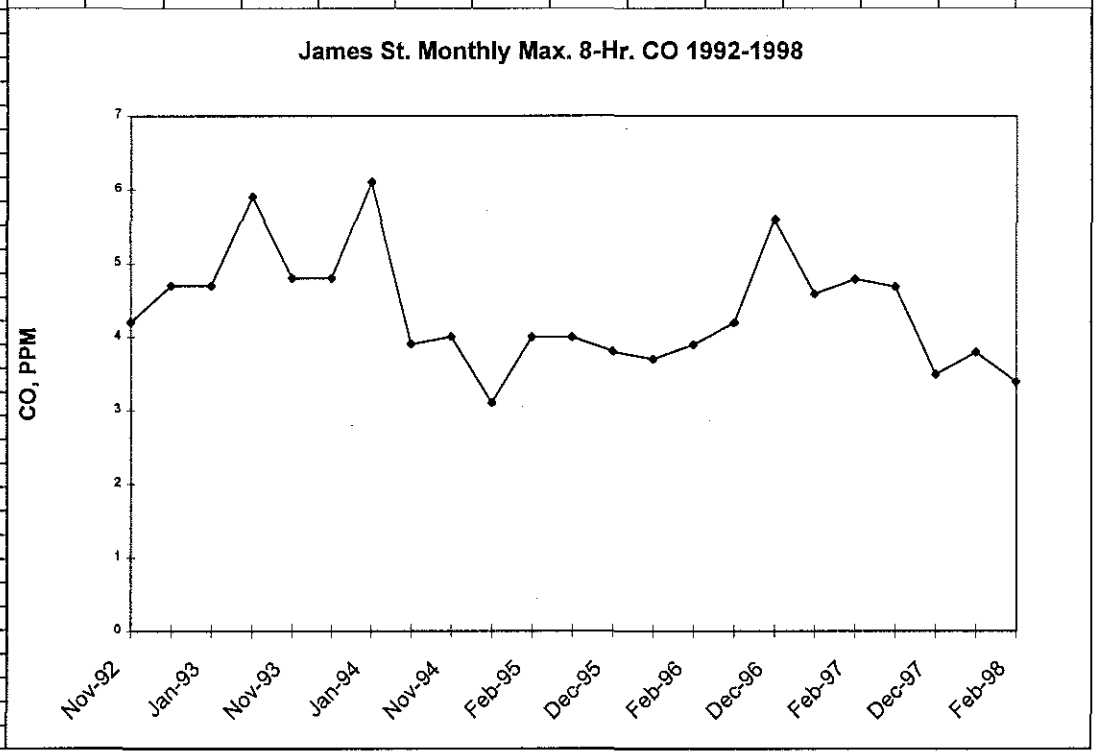
Date	Monthly Max 8-Hr CO, PPM
Nov-92	6.7
Dec-92	6.0
Jan-93	4.3
Feb-93	5.1
Nov-93	4.9
Dec-93	4.7
Jan-94	4.4
Feb-94	5.0
Nov-94	3.5
Dec-94	7.6
Jan-95	6.9
Feb-95	4.1
Nov-95	3.9
Dec-95	6.0
Jan-96	3.7
Feb-96	3.7
Nov-96	4.2
Dec-96	3.6
Jan-97	6.6
Feb-97	4.3
Nov-97	5.6
Dec-97	6.5
Jan-98	2.3
Feb-98	2.5



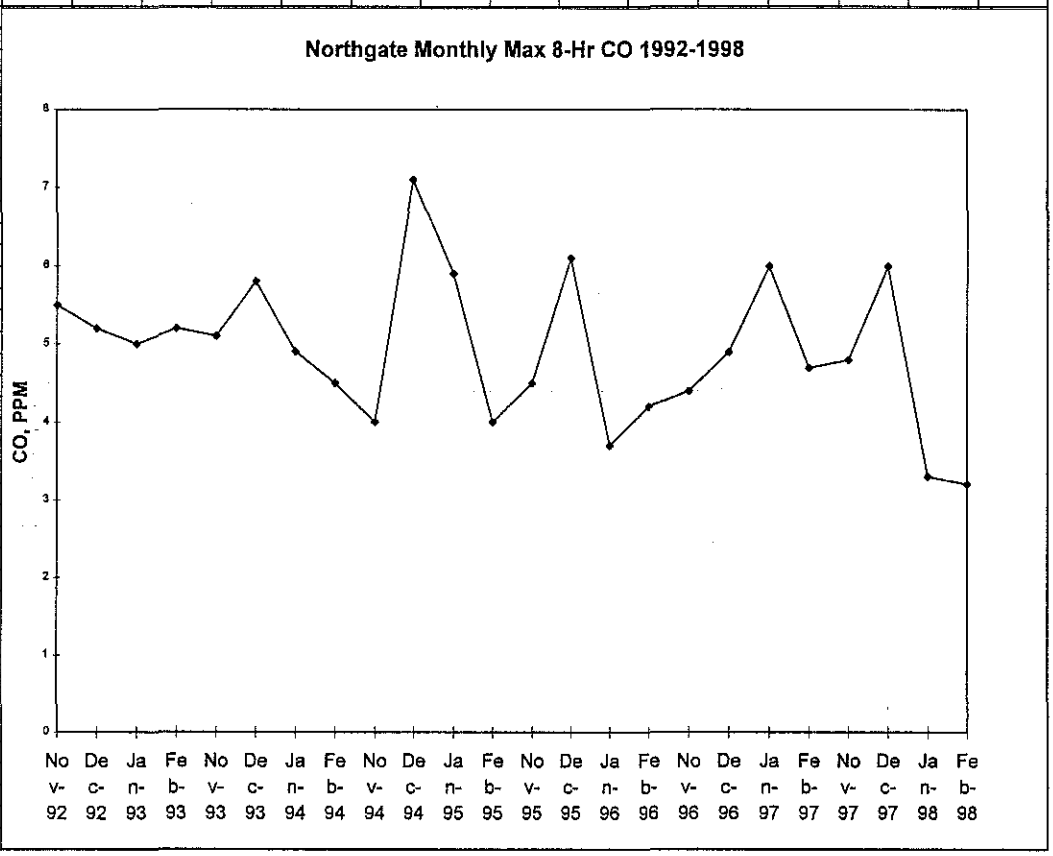
Date	Monthly Max 8-Hr CO, PPM
Nov-92	3.6
Dec-92	4.4
Jan-93	4.2
Feb-93	5.9
Nov-93	3.8
Dec-93	5.6
Jan-94	5.2
Feb-94	3.6
Nov-94	3.3
Dec-94	6.8
Jan-95	5.2
Feb-95	3.2
Nov-95	3.9
Dec-95	4.0
Jan-96	5.3
Feb-96	4.5
Nov-96	4.2
Dec-96	4.4
Jan-97	3.7
Feb-97	3.7
Nov-97	3.8
Dec-97	5.8
Jan-98	3.6
Feb-98	3



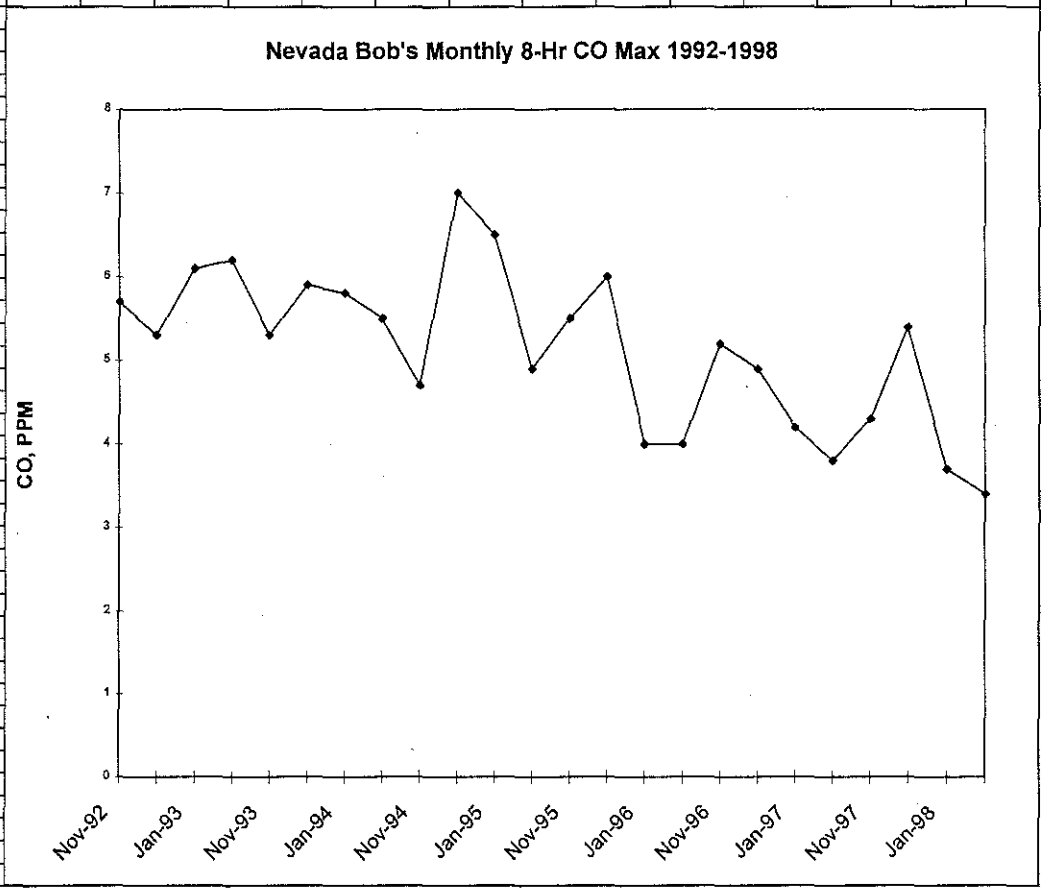
Date	Monthly Max 8-Hr CO, PPM
Nov-92	4.2
Dec-92	4.7
Jan-93	4.7
Feb-93	5.9
Nov-93	4.8
Dec-93	4.8
Jan-94	6.1
Feb-94	3.9
Nov-94	4.0
Dec-94	3.1
Feb-95	4.0
Nov-95	4.0
Dec-95	3.8
Jan-96	3.7
Feb-96	3.9
Nov-96	4.2
Dec-96	5.6
Jan-97	4.6
Feb-97	4.8
Nov-97	4.7
Dec-97	3.5
Jan-98	3.8
Feb-98	3.4
Jan-95	M



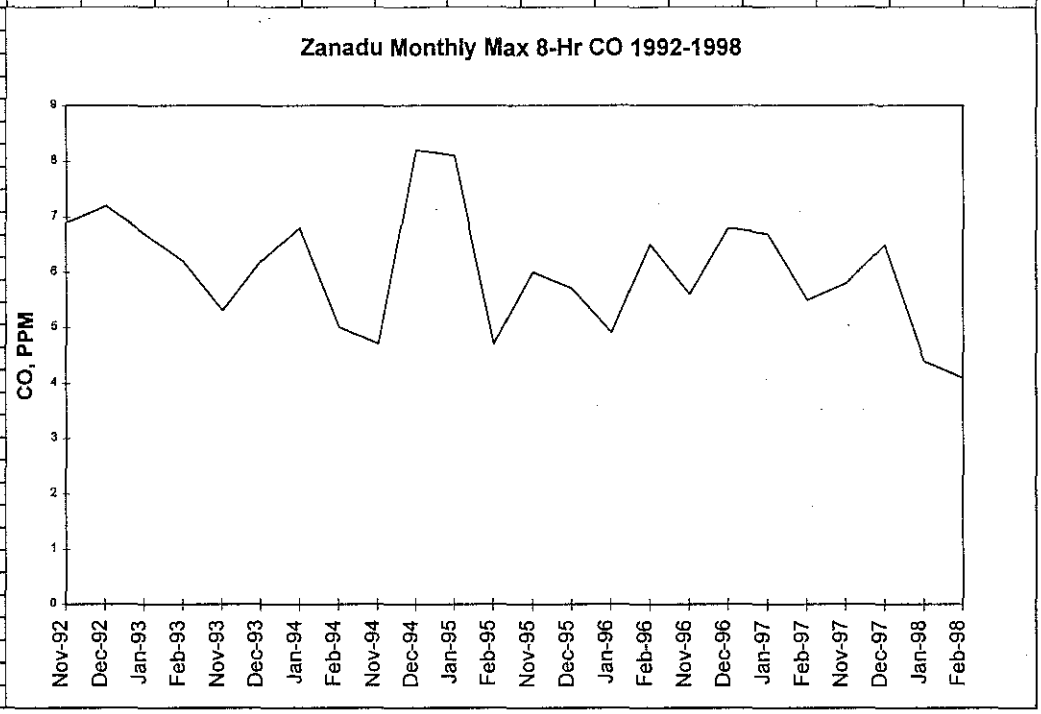
Date	Monthly Max 8-Hr CO, PPM
Nov-92	5.5
Dec-92	5.2
Jan-93	5.0
Feb-93	5.2
Nov-93	5.1
Dec-93	5.8
Jan-94	4.9
Feb-94	4.5
Nov-94	4.0
Dec-94	7.1
Jan-95	5.9
Feb-95	4.0
Nov-95	4.5
Dec-95	6.1
Jan-96	3.7
Feb-96	4.2
Nov-96	4.4
Dec-96	4.9
Jan-97	6.0
Feb-97	4.7
Nov-97	4.8
Dec-97	6
Jan-98	3.3
Feb-98	3.2



Date	Monthly Max 8-Hr CO, PPM
Nov-92	5.7
Dec-92	5.3
Jan-93	6.1
Feb-93	6.2
Nov-93	5.3
Dec-93	5.9
Jan-94	5.8
Feb-94	5.5
Nov-94	4.7
Dec-94	7.0
Jan-95	6.5
Feb-95	4.9
Nov-95	5.5
Dec-95	6.0
Jan-96	4.0
Feb-96	4.0
Nov-96	5.2
Dec-96	4.9
Jan-97	4.2
Feb-97	3.8
Nov-97	4.3
Dec-97	5.4
Jan-98	3.7
Feb-98	3.4



Date	Monthly Max 8-Hr CO, PPM
Nov-92	6.9
Dec-92	7.2
Jan-93	6.7
Feb-93	6.2
Nov-93	5.3
Dec-93	6.2
Jan-94	6.8
Feb-94	5.0
Nov-94	4.7
Dec-94	8.2
Jan-95	8.1
Feb-95	4.7
Nov-95	6.0
Dec-95	5.7
Jan-96	4.9
Feb-96	6.5
Nov-96	5.6
Dec-96	6.8
Jan-97	6.7
Feb-97	5.5
Nov-97	5.8
Dec-97	6.5
Jan-98	4.4
Feb-98	4.1



Approved_____
Approved with Corrections__X__

Minutes are not final until approved by the EQC

Environmental Quality Commission
Minutes of the Two Hundred and Seventy-Second Meeting

October 29-30, 1998
Open House and Regular Meeting

On October 29, 1998 the Environmental Quality Commission toured Ore-Ida Foods, Inc. before convening at the Holiday Inn, 1249 Tapadera Ave., Ontario, Oregon for an open house to meet with local officials. The Commission began *its* regular meeting at 8:30 a.m. on Friday, October 30, 1998, at the Holiday Inn in Ontario, Oregon. The following members were present:

Carol Whipple, Chair
Linda McMahan, Member
Tony Van Vliet, Member
Mark Reeve, Member

Also present were Kurt Burkholder and Larry Knudsen, Assistant Attorney Generals, Oregon Department of Justice; Langdon Marsh, Director, Department of Environmental Quality; and other staff.

Note: Staff reports presented at this meeting, which contain the Department's recommendations, are on file in the Office of the Director, 811 SW Sixth Avenue, Portland, Oregon 97204. Written material submitted at this meeting is made a part of the record and is on file at the above address. These written materials are incorporated in the minutes of the meeting by reference.

Chair Whipple called the meeting to order. The following items were addressed:

A. Approval of Minutes

Commissioner Reeve made the following correction to the September 17, 1998 minutes: On page 3, last paragraph, the third line should read -- "yes" votes. Commissioner *Van Vliet* ..... A motion was made by Commissioner Van Vliet to approve the minutes with the one modification. It was seconded by Commissioner Reeve and the motion carried with four "yes" votes.

C. Rule Adoption: Solid Waste "Catchall Rulemaking

Paul Slyman, Solid Waste Manager, gave background on the legislation being implemented in this rule change and use of the Solid Waste Advisory Group (SWAG) in developing the rules. Deanna Mueller-Crispin, senior solid waste planner, gave a brief presentation on existing Oregon recycling program requirements.

There were some questions on changes in the minimum glass recycled content regulations. Commissioner Reeve asked how the Department would enforce the requirement for out-of-state glass manufacturers to use minimum glass content, and encouraged DEQ to determine an enforcement mechanism before the enforcement deadline is reached. It was suggested a label might be used on complying glass containers stating they meet the Oregon standards. When asked why glass manufacturers are reluctant to use recycled glass, Ms. Crispin explained that the decision was a balance between sorting/cleaning costs and energy benefits, and for some manufacturers the most important issue was a stable source of feedstock. The effect of co-mingling collection of recyclables could lower the quality of recycled glass (cullet) as well.

Eliminating the financial assurance requirement for general permit composting facilities also generated some questions. The Waste, Management and Clean-up Division has been working with the Water Quality Division to

develop the best regulatory scheme while continuing to promote composting as a SW management tool. Surface water data from several other states which do not show problems has been reviewed. The issue of "zero impact" on groundwater was brought up by a member of the SWAG as a perceived internal inconsistency in DEQ regulations.

A motion was made by Commissioner Reeve to adopt the proposed rules as presented in Attachment A of the staff report. Commissioner McMahan seconded the motion and it was carried by four "yes" votes.

Later in the meeting Larry Knudsen, Assistant Attorney General, noted this rule adoption was not complete, as there was an additional correction requested by staff in an October 23, 1998 memo from Lang Marsh to the Commission. This was a correction to two statutory references. A motion was made by Commissioner Reeve to adopt the additional corrections. Commissioner Van Vliet seconded the motion and it carried with four "yes" votes.

D. Rule Adoption: Underground Storage Tank Rule Revisions

Mike Kortenhof, Underground Storage Tank Manager, presented a summary of the proposed rule revisions. Mike Anderson, hydrogeologist, provided additional technical information. Recommended changes will address each of the following:

- Establish acceptable risk levels consistent with ORS 465.315;
- Streamline the cleanup process for a new category of sites: "low-impact sites;"
- Include provisions for the development of generic remedies as directed by ORS 465.315;
- Combine two sets of cleanup rules into one set and restructure them for easier reading and implementation; and
- Establish a new Division 177 for administrative requirements for the cleanup of releases from residential heating oil tanks.

Commissioners asked questions about a number of miscellaneous items such as what the term "contaminated soil" means and how lead is addressed in the sampling requirements. The two main topics of interest, however, were the low-impact site (LIS) requirements (OAR 340-122-0243) and the provisions for developing generic remedies (OAR 340-122-0252). Commissioner Reeve proposed including provisions for allowing agricultural tank sites to use the LIS requirements. After some discussion with Commissioner Van Vliet of the term commercial, it was proposed that the phrase "or commercial" be added in the following sentence in OAR 340-122-0243.

> "The purpose of the low-impact site designation is to provide a streamlined process for operating gas stations or other industrial or commercial properties that allows these facilities to remain in operation while the responsible person manages any potential risk from contamination remaining at the site."

Commissioner Reeve felt that wording change was sufficient as long as the Department agreed agricultural use was just another commercial use of the property.

The Department was asked how it intends to use the generic remedy section of the rules. Mike Anderson explained the intent was to provide more specific cleanup recommendations for categories of sites that had common characteristics. Residential heating oil tank cleanups were given as an example. Kurt Burkholder, Assistant Attorney General, explained that generic remedies are not enforceable or implementable on their own, but had to be used within the context of the *existing* rules.

A vote on this agenda item was delayed until after the presentation of the next item (UST Compliance Rules). Commissioner Van Vliet then made a motion to adopt the UST Cleanup Rule package with the wording change noted above. Commissioner McMahan seconded the motion and it carried with four "yes" votes.

E. Rule Adoption: Underground Storage Tanks Compliance Rule Revisions

Mike Kortenhof presented a summary of the proposed rule revisions, including an update on tank facility status and the December 22, 1998 deadline for upgrade, replacement or closure of old tank systems. Recommended changes are designed to address each of the following:

- Adopt financial responsibility requirements for private tank owners with 1 to 100 tanks as well as local government tank owners.
- Adopt general permits by rule for installing, operating and decommissioning USTs, which replaces the temporary permits that have been in use since 1988 and;
- Incorporate miscellaneous housekeeping amendments involving:
    - Multi-chambered tanks, each chamber is considered a separate tank
    - payment of back fees on previously unregistered tanks
    - seek legal business names on general permit registration forms, and
    - report releases above confirmed release levels

An addendum to the October 15, 1998 rule adoption package was presented during the meeting containing drafting error corrections.

Commissioners asked follow-up questions about tank facility status and Department efforts to meet the deadline. Commissioner Reeve recommended that grammatical problems in 340-150-0003 (35) be corrected by rewording the first two sentences to say:

> "To permanently close a tank, owners and operators must empty and clean it by removing all liquids and accumulated sludges. ~~D~~ and dispose of all liquids and accumulated sludges by recycling or disposeal."

A motion was made by Commissioner Van Vliet to adopt the UST Compliance Rule package with the wording change noted above and including the addendum. Commissioner Reeve seconded the motion and it carried with four "yes" votes.

F. Rule Adoption: Temporary Rulemaking to Align the State Land Disposal Restrictions with the Federal Land Disposal Restrictions

Anne Price, Hazardous Waste Manager, and Richard Duval, Hazardous Waste Compliance Staff from the DEQ Pendleton office, presented this item. In September 1998, U.S. EPA promulgated a final rule amending the Hazardous Waste Land Disposal Restrictions ("LDR") program in 40 Code of Federal Regulations Parts 268 and 271 to establish treatment standards for spent potliner from primary aluminum reduction. To avoid serious prejudice to the public interest and to the interests of the parties concerned, the Department proposed to adopt temporarily these U.S. EPA amendments to the LDR program that apply to spent potliner and to repeal temporarily the parts of the existing state-adopted LDR program that apply to spent potliner. The federal standards were vacated by the U.S. Court of Appeals for the District of Columbia due to a finding under federal law that the testing method used in developing the standard was applied in an arbitrary and capricious manner.

A motion was made by Commissioner Van Vliet to temporarily adopt the new federal LDR rules and repeal the existing LDR rules as outlined in the staff report including attachments A & B. The Department will proceed through formal final rulemaking on these rules, returning to the EQC for their consideration in March, 1999. *The motion was seconded by Commissioner Reeve and carried with four "yes" votes.*

G. Approval of Tax Credit

Director Langdon Marsh presented the pollution control facility tax credit application number 5058 for approval. The applicant's (Woodburn Fertilizer, Inc.s) tax-year end is November 30, 1998. There being no discussion, a motion was made by Commissioner McMahan to approve the tax credit. Commissioner Reeve seconded the motion and it carried with four "yes" votes.

H. Update on the Grande Ronde TMDL

Joni Hammond, DEQ Eastern Region Water Manager, Mitch Wolgamott, DEQ Eastern Region Staff, and Dr. Gerald Young, Chair, Grande Ronde Water Quality Committee presented the update.

The Commission was reminded that they had adopted a rule in October 1997 related to TMDLs in the Grande River Basin. The rule established concentration limits for nutrients, required point sources to develop facilities plans to meet the nutrient limits and required water quality management plans to be developed to address all the 303(d) listed issues in the Upper Grande Ronde River Subbasin. The rule directed the Department to establish a local advisory committee to assist in the development of the management plans.

Dr. Young gave a progress report on the Grande Ronde Water Quality Committee. The committee is made up of representatives of all affected interests and affected state and federal agencies. There are four work groups under the umbrella of the advisory committee: Municipal/industrial, transportation, forestry and agriculture. The agriculture work group is the same as the SB 1010 Committee that is developing a plan to address agricultural sources working with the Department of Agriculture. The advisory committee recognizes the authority of both the Forest Practices Act and SB 1010. The work groups are making recommendations to the advisory committee related to pollution control for their source category. The full committee will review recommendations and develop a single integrated plan for the entire Upper Grande Ronde River Subbasin. Funding for implementation of projects to improve water quality will be a big issue. This is especially true for agriculture where financial assistance will be necessary. The Commission thanked Dr. Young for his efforts and involvement.

I. Appeal of Hearing's Officer's Findings of Fact, Conclusions of Law and Final Order in the Matter of William H. Ferguson, Case No. AQAB WR 96-351

At the September, 1998 EQC meeting the Commission directed Larry Knudsen, Assistant Attorney General, to prepare the final order according to the motion that was passed. The final order was presented to the Commission. Commissioner Reeve moved to accept the order as written; Commissioner Van Vliet seconded the motion. Commissioners Whipple, Reeve and Van Vliet voted to approve the motion. Commissioner McMahan abstained as she was not present for the initial discussion regarding this case.

Public Comment

Terry Drever Gee, representing the Eastern Oregon Mining Association, informed the Commission that the Eastern Oregon Mining Association had issued a letter of intent to sue to the Federal Highway Administration, The Oregon Department of Transportation, Multnomah County and the City of Portland. The intent to sue notice asserts the federal government has violated the Endangered Species Act by failing to examine whether restoration work may affect a listed species.

J. Commissioners' Reports

There were no Commissioners' reports given.

K. Director's Report

The Director, Lang Marsh, distributed a report to be read by the Commissioners at a later date. He then read a letter he would be sending to an Eastern Region DEQ employee, Tim Davison, for his outstanding contribution to the Department. Stephanie Hallock, Eastern Region Administrator, presented him with a plaque from the Commission acknowledging *his* 25 years of service to the Department.

There being no further business, the meeting was adjourned at 12:05 p.m.

State of Oregon
~~Department of Environmental Quality~~ ~~Memorandum~~

Date: December 9, 1998

To: Environmental Quality Commission

From: Langdon Marsh, Director

Subject: Addendum
Agenda Item D, December 11, 1998, EQC Meeting
Tax Credit Applications

This addendum includes applications for approval that were not included in the initial staff report.

Addendum to Approvals - Attachment B

New Applications

App. No.	Applicant	Facility Cost	Percentage Allocable
5115	Donald F. Wiltse	$63,489	98%
5116	Peter J. Kryl	$19,967	100%
5118	Langdon & Sons, Inc.	$27,100	100%
5123	Don & Laura Christensen	$36,590	100%
5124	Sandau Enterprises, Inc.	$171,734	100%
5130	Ernest Glaser Farms	$160,814	100%
5133	Ernest Glaser Farms	$78,448	100%

Corrections to Applications
The following applications for approval have been corrected:

Application 5043
On December 3, 1998, staff made adjustments to the Eligible Facility Cost in the Review Report application number 5043 based on the following clarification provided by Jeff Brown of Safeway, Inc. The corrected Review report is attached.

Three SS Yogurt Pots. 'The yogurt pots are catchments designed to capture spillage and flavor changes at the yogurt fillers. From these pots, the yogurt is pumped to the break-to-atmosphere tank and then the BOD Loadout tank. Since this was previously waste yogurt material that went to drain, the pots are exclusively part of the pollution prevention system, and costs should be allowed in full.'

CIP System. 'What was originally called "CIP System" on the cost detail of our application should have more accurately been called "Fabrication and Installation". These costs were for installation of piping, valving, and tankage that is all part of the

BOD removal system and caustic recovery system - it did not add any additional new CIP equipment. As such, we believe this cost should be fully allowable.'

Software. 'What was originally called "Software and Programming" on the cost detail of our application should have more accurately been called "Controller Hardware, Software, and Programming". As my previous e-mail indicated, three previous controller systems were replaced by a new Allen Bradley controller. This was necessary for the new BOD removal system to work due to the difficulty of integrating the three old systems. We realize that this provided the plant with operational improvement above and beyond the pollution prevention aspects. We believe an allowance of at least 25% of costs in this category is justified, since the pollution prevention involves roughly one quarter of the entire CIP cycle.'

Application 5079
Richard L. Delphia, who was the owner of the facility claimed on tax credit application number 5079 (Delphia Oil Company), properly notified the Department on December 7, 1998 that he sold the facility to DRKC L.L.C. Tax Credit application number 5079 has been changed to the new owner.

Remove from Agenda
Staff requests the removal of the following tax credit applications from this agenda.

	App. No.	Applicant	Background	Projected EQC Meeting
Approvals Attachment B	4751	Portland General Electric Company	Review "loading" claimed as part of the cost.	Year-End Telephone Conference
	4792	Willamette Industries, Inc.	Review additional information provided by the applicant.	Year-End Telephone Conference
	4993	Lamb-Weston, Inc.	Consider "owners own investment."	Year-End Telephone Conference
	5077	Hyundai Semiconductor America, Inc.	Review additional information provided by applicant.	Year-End Telephone Conference
Denials Attachment C	4959	Tidewater Barge, Inc.	On December 9, 1998, David Phillipe, legal counsel for Tidewater Barge, Inc. requested the postponement of this item from EQC consideration.	First Quarter 1999
	4965	Tidewater Barge, Inc,	On December 9, 1998, David Phillipe, legal counsel for Tidewater Barge, Inc. requested the postponement of this item from EQC consideration.	First Quarter 1999
Dept. Rejection	4570	Willamette Industries,	On December 2, 1998, Jim	First Quarter

Attachment E		Inc.	Aden of Willamette Industries asked to postpone this item until a date when he would be available to talk with the Commission. The Department agreed to wait until the first quarter of 1999.	1999
	4800	Willamette Industries, Inc.	On December 2, 1998, Jim Aden of Willamette Industries asked to postpone this item until a date when he would be available to talk with the Commission. The Department agreed to wait until the first quarter of 1999.	First Quarter 1999

Addendum to Certificate Transfer – Attachment F

On October 29, 1998, Gerald J. Settje requested the transfer of a second Pollution Control Facility certificate in addition to the transfer of the certificate listed in Attachment F. He requested that Certificate 2543 issued on July 14, 1991, be transferred to Matthew L. Carlough, the new owner of the facility. A copy of the request and the original certificate are shown in the attachment to this addendum.

Attachment B

Approvals Addendum

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant	**SAFEWAY INC.**
Application No.	**5043**
Facility Cost	**$650,431**
Percentage Allocable	**100%**
Useful Life	**7 years**

Pollution Control Facility: Water
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as grocery distribution center, milk plant and a bread plant taking tax relief under taxpayer identification number 94-3019135. The applicant is the owner of the facility. The applicant's address is:

Safeway Inc.
5918 Stoneridge Mall Rd
Pleasanton, CA 94588-3229

Facility Identification

The certificate will identify the facility as:

A pH neutralization system and a system to reduce the amount of Biological Oxygen Demand and Suspended Solids in milk plant wastewater by more than 50%.

The facility is located at:

Safeway Inc.
16800 SE Evelyn Street
Clackamas, OR 97015

Technical Information

The applicant installed a pH neutralization system consisting of a neutralizing tank, a polishing tank, chemical metering pumps and instrumentation. The system was installed to prevent the discharge of wastewater that is outside the pH range of 5.5 to 11 as required by Clackamas County Service District No.1. The milk plant and bread plant generated high levels of biological oxygen demand (BOD) and suspended solids (SS) which Clackamas County required a 50% reduction. The actual reduction OD BOD was 56% and reduction of SS was 73%. This was accomplished by modification of the process to capture the initial rinse water that is high in BOD and SS. The material is routed to a holding tank where it is hauled off site as a cattle feed supplement.

Eligibility

ORS 468.155 (1)(a)	The **principal purpose** of this **new installation and equipment** is to control and reduce a substantial quantity of water pollution.
ORS 468.155 (1)(b)(A)	The disposal or elimination of or redesign to eliminate industrial waste and the use of treatment works for industrial waste as defined in ORS 468B.005
OAR-016-0025 (2)(g)	Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**07/24/1998**
Application Substantially Complete	**11/02/1998**
Construction Started	**06/28/1994**
Construction Completed	**07/12/1997**
Facility Placed into Operation	**07/12/1997**

Facility Cost

Facility Cost		**$830,696**
Salvage Value		$ -
Government Grants		$ -
Other Tax Credits		$ -
Insignificant Contribution (ORS 468.155(2)(d)		$ -
Ineligible Costs		**(180,265)**
Ladder, catwalk & platforms	(1,173)	
Safety equipment	(1,601)	
Fencing	(1,543)	
Paving	(2,498)	
Alcove & truck dock	(14,860)	
Steam piping	(3,835)	
Skid & shrink wrap	(1,000)	
Room air conditioner	(569)	
Conductivity analyzer	(1,560)	
Sensors	(16,387)	
Laptop computer - 75% of total cost	(5,943)	
Controller hardware Software - 75% of total cost	(129,296)	
Eligible Facility Cost		**$650,431**

The facility cost exceeds $500,000; therefore Maggie Vandehey performed an accounting review of 100% of the invoices on behalf of the Department.

The claimed facility included costs that were not directly related to the reduction of pollutants in the wastewater. The above table lists the ineligible items. These items are ineligible because their purpose and function is for safety, landscaping, conveying product, room conditioning, and meeting health standards, not for pollution control or reduction and not due to the applicants wastewater discharge permit requirements. The monitoring system is required for billing purposes, but not for permit compliance.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost exceeds $50,000 and therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 7 years. No gross annual revenues were associated with this facility.
ORS 468.190(1)(c) Alternative Methods	Several alternative methods were investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.

Permits issued to facility: Clackamas County Service District No. 1 Industrial Wastewater Discharge Permit No. 01K-017-D.

Reviewers: SJO Consulting Engineers, Dennis E. Cartier
SJO Consulting Engineers, Lois Payne
Maggie Vandehey

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant	**DRKC, L.L.C.**
Application No.	**5079**
Facility Cost	**$74,921**
Percentage Allocable	**98%**
Useful Life	**7 years**

Pollution Control Facility: USTs
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a limited liability corporation operating as sale of fuel for cars, trucks, etc. that is taking tax relief under taxpayer identification number 93-1250352. The applicant is the owner of the facility. The applicant's address is:

DRKC, L.L.C.
58 SE Harbor
PO Box 910
Warrenton, OR 97146

Facility Identification

The certificate will identify the facility as:

2 OPW #1 spill containment units; 2 CNI spill containment units; 2 OPW 61-50 overfill prevention valves and 2 DS2316 underpump spill containment basins

The facility is located at:

30 SE Harbor
Warrenton, OR

Technical Information

Installation for corrosion protection – Epoxy tank lining and impressed current cathodic protection on existing steel underground storage tanks and doublewall fl4exible plastic piping. For spill and overfill prevention – Spill containment basins, sumps, automatic shutoff valves and an overfill alarm. For leak detection – Automatic tank gauge system and turbine leak detectors. For VOC reduction a Stage I vapor recovery system to reduce air quality emissions was installed.

Eligibility

ORS 468.155 (1)(a) The **purpose** of this **improvement which includes equipment and** is to prevent, control or reduce a substantial quantity of air and water pollution.

ORS 468.155 The disposal or elimination of or redesign to eliminate industrial waste and the

(1)(b)(A) use of treatment works for industrial waste as defined in ORS 468B.005
OAR-016-0025 (2)(g) Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**09/22/1998**
Application Substantially Complete	**10/14/1998**
Construction Started	**08/01/1996**
Construction Completed	**11/01/1996**
Facility Placed into Operation	**12/01/1996**

Facility Cost

	Eligible	Ineligible	
Claimed Facility Cost			**$97,651**
Corrosion Protection			
Doublewall flexible plastic piping	3,409		
Epoxy tank lining	12,150		
Cathodic protection	7,200		
Spill & Overfill Prevention			
Spill containment basins	837		
Sumps	4,500		
Automatic shutoff valves	1,400		
Leak Detection			
Tank Gauge system w/alarm	13,069		
Turbine leak detectors	1,000		
VOC Reduction			
Stage I vapor recovery	350		
Labor, material, Misc. parts	31,006		
Product Dispensers		$18,663	
Site assessment		$4,067	
	$74,921	**$22,730**	**$97,651**

The facility cost was greater than $50,000 but less than $500,000; therefore, **Stephen C Allen, CPA** performed an accounting review accourding to Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost exceeds $50,000; therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 7 years. No gross annual revenues were associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	Piping Cost is 95% allocable to pollution control. This is based on the difference between the cost of protected piping system ($3,409) and an equivalent bare steel system ($180) as a percent of the protected system. Tank Gauge System is 90% allocable to pollution control as determined by the Commission in 1990 since the device can serve other purposes, for example, inventory control.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. especially, Underground Storage Tank requirements under OAR Chapter 340, Division 150.

DEQ permits issued to facility:

Reviewers: Barbara J Anderson
Maggie Vandehey

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation:	**APPROVE**
Applicant	**Donald F Wiltse**
Application No.	**5115**
Facility Cost	**$63,489**
Percentage Allocable	**98%**
Useful Life	**7 years**

Pollution Control Facility: USTs
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as commercial cardlock fuel facility taking tax relief under taxpayer identification number. The applicant is the owner of the facility. The applicant's address is:

Donald F Wiltse
181 19th St
Lyons, OR 97358

Facility Identification

The certificate will identify the facility as:

Epoxy lining and cathodic protection in four existing steel underground storage tanks, fiberglass piping, spill containment basins, automatic tank gauge system with overfill alarm, line leak detectors and Stage II vapor recovery piping.
The facility is located at:
11212 HWY 226
Mehama, OR 97384

Technical Information

To respond to Underground Storage Tank requirements under OAR 340-Division 150, the applicant installed for corrosion protection – Epoxy tank lining and cathodic protection on existing steel underground storage tanks and fiberglass piping. For spill and overfill prevention – Spill containment basins and an overfill alarm. For leak detection – Automatic tank gauge system and line leak detectors. In addition the following was installed to reduce air quality emissions. For VOC reduction- Stage II vapor recovery piping.

Eligibility

ORS 468.155 (1)(a) The **purpose** with this **addition of equipment and devices** is to prevent, control or reduce a substantial quantity of air and water pollution..

OAR-016-0025 (2)(g) Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**11/09/1998**
Application Substantially Complete	**11/19/1998**
Construction Started	
Construction Completed	**07/01/1998**
Facility Placed into Operation	**07/01/1998**

Facility Cost

Facility Cost	**$63,489**
Corrosion Protection	
Fiberglass and piping	11,900
Epoxy tank lining and cathodic protection	30,425
Spill & Overfill Prevention	
Spill Containment basins	5,180
Leak Detection	
Tank gauge system w/alarm	9,112
Line leak detectors	1,350
Labor, material, misc. parts, incl Stage II vapor recovery piping	5,522
Eligible Facility Cost	**$63,489**

The facility cost was greater than $50,000 but less than $500,000. **Clinton J. Bentz, CPA** performed an accounting review accourding to Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost exceeds $50,000 and therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	No gross annual revenues were associated with this facility.
ORS 468.190(1)(c) Alternative Methods	The applicant chose the method considered to be most cost-effective. The methods chosen are acceptable for meeting the requirements of federal regulations.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	The Department has determined the percent allocable on the cost of a corrosion protected piping system by using a formula based on the difference in cost between the protected piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is $11,900 and the bare steel system is

$328, the resulting portion of the eligible tank and piping cost allocable to pollution control is 97%. The applicant's cost for a tank gauge system is reduced to 90% of cost based on a determination by the Department that this is the portion properly allocable to pollution control since the device can serve other purposes, for example, inventory control.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. especially, Underground Storage Tank requirements under OAR Chapter 340, Division 150.

DEQ permits issued to facility:

Reviewers: Barbara J Anderson

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation:	**APPROVE**
Applicant	**Peter J. Kryl**
Application No.	**5116**
Facility Cost	**$19,967**
Percentage Allocable	**100%**
Useful Life	**7 years**

Pollution Control Facility: USTs
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as commercial cardlock fuel facility taking tax relief under taxpayer identification number. The applicant is the owner of the facility. The applicant's address is:

Peter J Kryl
2185 W 29th Ave
Eugene, OR 97405

Facility Identification

The certificate will identify the facility as:

Epoxy lining in one steel underground storage tank and flexible plastic piping.
The facility is located at:

1888 Franklin Blvd
Eugene, Or 97405

Technical Information

To respond to Underground Storage Tank requirements under OAR 340-Division 150, the applicant installed for corrosion protection – Epoxy tank lining and flexible plastic piping.

Eligibility

ORS 468.155 (1)(a)	The **purpose** with this **addition of equipment and devices** is to prevent, control or reduce a substantial quantity of air and water pollution.
OAR-016-0025 (2)(g)	Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**11/09/1998**
Application Substantially Complete	**11/19/1998**
Construction Started	**08/07/1998**
Construction Completed	**10/12/1998**
Facility Placed into Operation	**10/12/1998**

Facility Cost

Facility Cost	**$19,967**
Corrosion Protection	
Epoxy tank lining	8,649
Cathodic protection on tanks	7,010
Labor, material, misc. parts	4,308
Eligible Facility Cost	**$19,967**

Invoices or canceled checks substantiated the cost of the facility. The facility cost does not exceed $50,000; therefore, an independent accounting review was not required.

Facility Cost Allocable to Pollution Control

According to ORS 468.190 (3), the facility cost does not exceed $50,000; therefore, the only factor used to determine the percentage of the facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. The percentage of time this facility is used for pollution control is 100%.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	No gross annual revenues were associated with this facility.
ORS 468.190(1)(c) Alternative Methods	The applicant chose the method considered to be most cost-effective. The methods chosen are acceptable for meeting the requirements of federal regulations.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. especially, Underground Storage Tank requirements under OAR Chapter 340, Division 150.

DEQ permits issued to facility:

Reviewers: Barbara J Anderson

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant	**Langdon & Sons, Inc.**
Application No.	**5118**
Facility Cost	**$27,100**
Percentage Allocable	**100%**
Useful Life	**10 years**

Pollution Control Facility: Field Burning
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a partnership operating as a grass seed farm. The applicant is the owner of the facility and will be taking tax relief under taxpayer identification number 93-0639905.
The applicant's address is:

Langdon & Sons, Inc.
30600 Diamond Hill Drive
Harrisburg, OR 97446

Facility Identification

The certificate will identify the facility as:

Alloway 30 foot shredder for shredding grass seed straw
The facility is located at:

30600 Diamond Hill Drive
Harrisburg, OR 97446

Technical Information

The applicant has 387 perennial and 1,434 annual grass seed acres under cultivation. Langdon & Sons, Inc. has progressively reduced acres open field burned over the last several years. They continue to increase their efforts to remove straw by baling and flail chopping.
The Alloway 30 foot shredder will enable the applicant to increase the annual acres flail chopped and plowed under and accomplish the task in a timely manner

Eligibility

ORS 468.155 (1)(a)	The **principal purpose** of this equipment is to prevent a substantial quantity of air pollution.
OAR-016-025 (2)(f)(A)	Equipment, facilities, and land for gathering, densifying, processing, handling, storing, transporting and incorporating grass straw or straw based products which will result in reduction of open field burning.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**11/12/98**
Application Substantially Complete	**11/25/98**
Construction Started	**12/29/97**
Construction Completed	**06/15/98**
Facility Placed into Operation	**07/22/98**

Facility Cost

Facility Cost		**$27,100**
Salvage Value	$	-
Government Grants	$	-
Other Tax Credits	$	-
Insignificant Contribution ORS 468.155(2)(d)	$	-
Eligible Facility Cost		**$27,100**

The facility cost does not exceed $50,000; therefore, an independent accounting review was not required. A single invoice substantiated the cost of the facility.

Facility Cost Allocable to Pollution Control

The facility cost does not exceed $50,000. According to ORS 468.190 (3), the only factor used in determining the percentage allocable to pollution control is the percentage of time the facility is used for pollution control. Therefore, the percentage of the facility cost allocable to pollution control is **100%**.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.

Reviewers: James Britton

Tax Credit Review Report

EQC 12/11/98

Director's Recommendation: **APPROVE**

Applicant	**Don & Laura Christensen**
Application No.	**5123**
Facility Cost	**$36,590**
Percentage Allocable	**100%**
Useful Life	**10 years**

Pollution Control Facility: Field Burning
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is an individual operating as a grass seed farm that is taking tax relief under taxpayer identification number 93-0963659. The applicant is the owner of the facility. The applicant's address is:

Don & Laura Christensen
Christensen Farms
17215 SW Christensen Rd
McMinnville, OR 97128

Facility Identification

The certificate will identify the facility as:

built on to an existing shed for more storage of straw

The facility is located at:

Christensen Farms
17215 SW Christensen Rd
McMinnville, OR 97128

Technical Information

The applicants have 1,916 perennial acres under grass seed cultivation. To reduce current and avoid future open field burning and stack burning of residue left from the grass seed harvest, the applicants claim that additional storage facilities are required to keep the straw dry. Applicants claim that this facility was constructed to provide storage for approximately 360 acres of straw to enable straw balers to confidently remove and market the commodity.

Eligibility

ORS 468.155 (1)(a)	The **principal purpose** of storage building addition is to prevent, control or reduce a substantial quantity of air pollution.
OAR-016-025 (2)(f)(A)	Equipment, facilities, and land for gathering, densifying, processing, handling, storing, transporting and incorporating grass straw or straw based products which will result in reduction of open field burning.
OAR-016-0025 (2)(f)(B)	Propane flamers or mobile field sanitizers which are alternatives to open field burning and reduce air quality impacts.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**11/30/1998**
Application Substantially Complete	**12/18/1998**
Construction Started	**07/15/1998**
Construction Completed	**08/01/1998**
Facility Placed into Operation	**08/01/1998**

Facility Cost

Facility Cost	**$36,590**
Eligible Facility Cost	**$36,590**

The facility cost does not exceed $50,000. An independent accounting review was not required. However, invoices or canceled checks substantiated the cost of the facility.

Facility Cost Allocable to Pollution Control

The facility cost does not exceed $50,000. According to ORS 468.190 (3), the only factor used in determining the percentage allocable to pollution control is the percentage of time the facility is used for pollution control. Therefore, the percentage of the facility cost allocable to pollution control is **100%**.

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes and with EQC orders.

DEQ permits issued to facility:

Reviewers: James Britton

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant	**Daniel D. & Steve C. Sandau**
Application No.	**5124**
Facility Cost	**$171,734**
Percentage Allocable	**100%**
Useful Life	**10 years**

Pollution Control Facility: Field Burning
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a partnership operating as a grass seed farm that is taking tax relief under taxpayer identification number 93-1068414. The applicant is the owner of the facility. The applicant's address is:

Daniel D. & Steve C. Sandau
Steve C Sandau, VP
677 78th Ave NE
Salem, OR 97301

Facility Identification

The certificate will identify the facility as:

Straw storage shed

The facility is located at:

775 78th Ave NE
Salem, OR 97301

Technical Information

200' x 104' x 28' clear span, steel construction building used to store grass seed straw.

Eligibility

ORS 468.155 (1)(a) The **principal purpose** of this land and building is to prevent, control or reduce a substantial quantity of air pollution.

OAR-016-025 (2)(f)(A) Equipment, facilities, and land for gathering, densifying, processing, handling, storing, transporting and incorporating grass straw or straw based products which will result in reduction of open field burning.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**12/02/1998**
Application Substantially Complete	**12/07/1998**
Construction Started	**05/05/1998**
Construction Completed	**11/24/1998**
Facility Placed into Operation	**08/18/1998**

Facility Cost

Claimed Facility Cost	**$171,734**
Eligible Facility Cost	**$171,734**

The facility cost was greater than $50,000 but less than $500,000. Therefore, Robert L Armstrong, P.C. performed an accounting review according to Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

The facility cost exceeds $50,000. According to ORS 468.190 (1), the factors listed below were considered in determining the percentage of the facility cost allocable to pollution control. The percentage of the facility cost allocable to pollution control is **100%**.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity. Straw protected from inclement weather is a salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 20 years. The projected average annual cash flow of the facility is $8,174 producing a return on investment factor of 21.01. The facility ROI from table 1 is 0. Using the national ROI for 1998 of 6.3 the percentage of the facility allocable to pollution control is 100%.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes and with EQC orders.

Reviewers: James Britton

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant	**Ernest Glaser Farms**
Application No.	**5130**
Facility Cost	**$160,814**
Percentage Allocable	**100%**
Useful Life	**10 years**

Pollution Control Facility: Field Burning
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a partnership operating as a grass seed farm that is taking tax relief under taxpayer identification number 93-0487925. The applicant is the owner of the facility. The applicant's address is:

Ernest and Brian Glaser
29245 Seven Mile Lane
Shedd, OR 97377

Facility Identification

The certificate will identify the facility as:

200 acres of tiling

The facility is located at:

29245 Seven Mile Lane
Shedd, OR 97377

Technical Information

The applicant has 1,820 perennial and 380 annual grass seed acres under cultivation. The applicant states that all of this acreage was open field burned prior to investigating and implementing alternative methods to thermal sanitization. The alternative methods include baling the bulk straw off the perennial fields, flail chopping the bulk straw on annual fields and the remaining residue on perennial fields, plowing the flailed straw under on annual fields and vacuuming the flailed straw off perennial fields. A deleterious effect of these alternatives is an increase in the weed population. The best farming practice recommended for weed control to avoid increasing chemical application is crop rotation. Drainage tile enhances crop rotation because tiling extends the season so land can be prepared earlier for crops other than grass. The tiling drains the land making it available for oat and wheat production and standard row crop plantings.

The Division of State Lands has determined this 200 acres to be prior converted wetlands and not subject to the Food Security Act unless the area reverts to wetlands as a result of abandonment.

Eligibility

ORS 468.155 (1)(a) The **principal purpose** of this land and building is to prevent, control or reduce a substantial quantity of air pollution.

OAR-016-025 (2)(f)(A) Equipment, facilities, and land for gathering, densifying, processing, handling, storing, transporting and incorporating grass straw or straw based products which will result in reduction of open field burning.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**12/09/1998**
Application Substantially Complete	**12/09/1998**
Construction Started	**07/01/1998**
Construction Completed	**08/01/1998**
Facility Placed into Operation	**08/01/1998**

Facility Cost

Claimed Facility Cost	**$160,814**
Eligible Facility Cost	**$160,814**

The facility cost was greater than $50,000 but less than $500,000. Therefore, Robert L. Armstrong, P.C. performed an accounting review according to Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

The facility cost exceeds $50,000. According to ORS 468.190 (1), the factors listed below were considered in determining the percentage of the facility cost allocable to pollution control. The percentage of the facility cost allocable to pollution control is **100%**.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity. Straw protected from inclement weather is a salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 20 years.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes and with EQC orders.

Reviewers: James Britton

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant	**Ernest Glaser Farms**
Application No.	**5133**
Facility Cost	**$ 91,454**
Percentage Allocable	**100%**
Useful Life	**10 years**

Pollution Control Facility: Field Burning
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a partnership operating as a grass seed farm that is taking tax relief under taxpayer identification number 93-0487925. The applicant is the owner of the facility. The applicant's address is:

Ernest and Brian Glaser
29245 Seven Mile Lane
Shedd, OR 97377

Facility Identification

The certificate will identify the facility as:

Drainage Tile on 160 acres.

The facility is located at:

29245 Seven Mile Lane
Shedd, OR 97377

Technical Information

The applicant has 1,820 perennial and 380 annual grass seed acres under cultivation. The applicant states that all of this acreage was open field burned prior to investigating and implementing alternative methods to thermal sanitization. The alternative methods include baling the bulk straw off the perennial fields, flail chopping the bulk straw on annual fields and the remaining residue on perennial fields, plowing the flailed straw under on annual fields and vacuuming the flailed straw off perennial fields. A deleterious effect of these alternatives is an increase in the weed population. The best farming practice recommended for weed control to avoid increasing chemical application is crop rotation. Drainage tile enhances crop rotation because tiling extends the season so land can be prepared earlier for crops other than grass. The tile drains the land making it available for oat and wheat production and standard row crop plantings.

The Division of State Lands has determined this160 acres to be prior converted wetlands and not subject to the Food Security Act unless the area reverts to wetlands as a result of abandonment.

Eligibility

ORS 468.155 (1)(a) The **principal purpose** of this land and building is to prevent, control or reduce a substantial quantity of air pollution.

OAR-016-025 (2)(f)(A) Equipment, facilities, and land for gathering, densifying, processing, handling, storing, transporting and incorporating grass straw or straw based products which will result in reduction of open field burning.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**12/08/1998**
Application Substantially Complete	**12/09/1998**
Construction Started	**10/01/1997**
Construction Completed	**11/01/1997**
Facility Placed into Operation	**11/01/1997**

Facility Cost

Claimed Facility Cost	**$91,454**
Eligible Facility Cost	**$91,454**

The facility cost was greater than $50,000 but less than $500,000. Therefore, Robert L Armstrong, P.C. performed an accounting review according to Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

The facility cost exceeds $50,000. According to ORS 468.190 (1), the factors listed below were considered in determining the percentage of the facility cost allocable to pollution control. The percentage of the facility cost allocable to pollution control is **100%**.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity. Straw protected from inclement weather is a salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 20 years.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes and with EQC orders.

Reviewers: James Britton
Department of Agriculture

Attachment F

Certificate Transfers

Addendum

DEPARTMENT OF ENVIRONMENTAL QUALITY
UST POLLUTION CONTROL TAX CREDIT PROGRAM

REQUEST FOR TRANSFER OF TAX CREDIT

Please provide information asked for below and attach a copy of your tax credit certificate.

Tax Credit Certificate No. 2543 **Tax Credit Application No.** 3426

Name and address of current tax credit holder:

Name Clatskanie Minimart

Address Gerald L. Setty's
260 Columbia River Hwy
Clatskanie, OR 97016

Name and address to transfer tax credit to:

Name Clatskanie Mini Mart

Address Matthew L. Carlough
260 Columbia River Hwy
Clatskanie, OR 97016

Signature of current tax credit holder X [signature]

Date of signature 10-22-98

PHONE NO. OF PERSON DEQ MAY CONTACT REGARDING THIS REQUEST: (503) 728-2035

==========

Send this request to:

Attn: Barbara Anderson
DEQ
811 SW 6th
Portland, OR 97204

Phone: (503) 229-5870 or toll-free in Oregon 1-800 452-4011. FAX: (503) 229-6954.

STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY

Certificate No. 2543
Date of Issue 7/14/91
Application No. T-3426

POLLUTION CONTROL FACILITY CERTIFICATE

Issued To:	Location of Pollution Control Facility:
Clatskanie Minimart Garold L. Settje 260 Columbia River Hwy Clatskanie, OR 97016	260 Columbia River Hwy. Clatskanie, OR

As: ( )Lessee (x)Owner

Description of Pollution Control Facility: Installation of three composite tanks and double wall fiberglass piping, spill containment basins, tank monitor, automatic shutoff valves and line leak detectors, monitoring wells and sumps.

Type of Pollution Control Facility:
( )Air ( )Noise (x)Water ( )Solid Waste ( )Hazardous Waste ( )Used Oil

Date Facility was Completed: 12/09/90 Placed into Operation: 12/09/90

Actual Cost of Pollution Control Facility: $83,082.00

Percent of Actual Cost Properly Allocable to Pollution Control: 86% = #71,451.12 = #35,72 / 10 yrs #3572

Based upon the information contained in the application referenced above, the Environmental Quality Commission certifies that the facility described herein was erected, constructed or installed in accordance with the requirements of subsection (1) of ORS 468.165, and is designed for, and is being operated or will operate to a substantial extent for the purpose of preventing, controlling or reducing air, water or noise pollution or solid waste, hazardous wastes or used oil, and that it is necessary to satisfy the intents and purposes of ORS Chapters 454, 459, 467 and 468 and rules adopted thereunder.

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

1. The facility shall be continuously operated at maximum efficiency for the designed purpose of preventing, controlling, and reducing the type of pollution as indicated above.
2. The Department of Environmental Quality shall be immediately notified of any proposed change in use or method of operation of the facility and if, for any reason, the facility ceases to operate for its intended pollution control purpose.
3. Any reports or monitoring data requested by the Department of Environmental Quality shall be promptly provided.

NOTE: The facility described herein is not eligible to receive tax credit certification as an Energy Conservation Facility under the provisions of Chapter 512, Oregon Law 1979, if the person issued the Certificate elects to take the tax credit relief under [redacted]

Signed: _____

Title: William P. Hutchison, Jr., Chairman

Approved by the Environmental Quality Commission on the 14th day of June, 1991.

MY101556.A

Environmental Quality Commission

☐ Rule Adoption Item
X Action Item
☐ Information Item

Agenda Item D
December 11, 1998, Meeting

Title: Approval and Denial of Tax Credit Applications

Summary: Staff recommends the following actions regarding tax credits:

	Certified Cost	Value
Approve		
Pollution Control Facility Tax Credit (81 applications)		
Air (16 applications)	$17,617,863	$8,808,932
Air/Noise (1 application)	$45,788	$22,894
Field Burning (3 applications)	$321,401	$143,397
Hazardous Waste (1 application)	$262,091	$131,046
Noise (2 applications)	$69,091	$34,546
Solid Waste (10 applications)	$734,534	$367,267
USTs (23 applications)	$3,330,899	$1,538,762
Water (25 applications)	$13,148,593	$6,574,297
Pollution Control Facility Tax Credit	$35,530,260	$17,621,139
Reclaimed Plastics Products Tax Credit (5 applications)	$40,355	$20,178
Approve (86 applications)	$35,570,615	$17,641,316
Deny		
Pollution Control Facility Tax Credit (6 applications)		
Air (2 applications)	$4,018,737	$2,009,369
Solid Waste (2 applications)	$325,927	$162,964
Water (2 applications)	$1,550,000	$775,000
Deny (6 applications)	$5,894,664	$2,947,332
Reject		
Pollution Control Facility Tax Credit (2 applications)		
Air (1 application)	$110,418	$55,209
Solid Waste (1 application)	$2,596,818	$1,298,409
Reject (2 applications)	$2,707,236	$1,353,618

Approve issuance of tax credit certificates for the applications presented in Attachment B. Deny issuance of tax credit certificates for the applications presented in Attachment C. Discuss and take action on the applications presented in Attachment D. Transfer the certificate presented in Attachment F. Reissue certificates in Attachment G.

Report Author | Division Administrator | Director

November 5, 1998

†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

Date: November 19, 1998

To: Environmental Quality Commission

From: Langdon Marsh, Director

Subject: Agenda Item D, December 11, 1998, EQC Meeting
Tax Credit Applications

Statement of the Need for Action

This staff report presents the staff analysis of pollution control facility and reclaimed plastic tax credit applications and the Department's recommendation for Commission action on these applications.

- All applications are summarized in Attachment A of this staff report.
- Applications recommended for Approval are presented in detail in Attachment B.
- Applications recommended for denial are presented in Attachment C.
- Applications for discussion and subsequent action are presented in Attachment D.
- Applications that will be rejected by the Department are presented in Attachment E.
- A request for a certificate transfer is presented in Attachment F.
- A request for the reissue of three certificates is presented in Attachment G.

Background APPROVALS: Attachment B

Approval of Application Number 4792

Willamette Industries' application number 4792 was moved forward from the Commission meeting held on September 17, 1998, at the request of the applicant.

Insignificant Contribution

On August 22, 1997, the Commission began a more stringent interpretation of what constitutes an "insignificant contribution" when determining if a claimed cost provides a direct pollution control benefit. ORS 468.155 (2)(d) excludes "... *Any distinct portion of a pollution control facility that makes an insignificant contribution to the principal or sole purpose of the facility...*" from the definition of a pollution control facility.

"Would the pollution control benefit be compromised without this expenditure?" replaced the more expansive question, "Was this expenditure necessary for the installation of the pollution control facility?"

Examples were given in the staff report as: lighting fixtures, lights, lamps, sprinkler systems, stairs, catwalks, platforms, handrails, and any engineering and labor costs associated with the installation of these items are ineligible costs because they make an insignificant contribution to the control, reduction or elimination of pollution.

The Department recognizes costs of this nature are incurred because they are part of the cost of building a sound, clean, safe and pleasing working environment. However, under the pollution control facility program, they do not directly contribute to pollution control benefit and are ineligible for the purpose of reducing the applicant's tax liability.

Approval of Applications Numbered 4696 and 5003
Maggie Vandehey talked with International Paper Company's mill manager regarding reports of the Gardner mill closing. Staff would not be able to recommend the approval of the facilities claimed on tax credit applications numbered 4697 and 5003 if they were are not operating as claimed on the application. International Paper will announce a lay-off for an undetermined period of time in December. However, the two facilities claimed for certification will continue to operate as claimed on the applications regardless of a lay-off.

Background DENIALS: Attachment C

Denial of Application 4688
Columbia Forest Products, Inc. informed the Department that the electrostatic precipitator claimed on application number 4688 was taken out of service permanently. Since the facility is not operating as presented on the application, staff recommends denial for certification as a pollution control device.

Background DISCUSSION - ACTION: Attachment D

Portland General Electric Applications 4463 and 4457
On September 17, 1998, the Commission directed staff to review the additional information presented by Ed Miska of Portland General Electric Co. during the EQC Meeting. They directed staff to determine if the continuous monitoring system (CMS) presented on application 4463 would have been eligible had the system been claimed on application 4457.

Dave Kauth of the Air Quality Division reviewed the additional information and determined that this type of equipment would have been eligible had the two systems been presented together. This CMS has the ability to control the amount of NO_x pollutant emitted from the plant when integrated with the chemical (ammonia) injection system claimed on application number 4457.

The CMS is also used to meet regulatory reporting requirements but only that portion of the system directly related to pollution control is deemed eligible. If approved, the two facilities claimed on applications numbered 4463 and 4457 would be issued a single certificate according to ORS 468.170(4)(c). *(If one or more facilities constitute an operational unit, the commission may certify such facilities under one certificate.)*

Tidewater Barge Lines, Inc.

Barge	Approve Vapor Recovery	Deny Double-hulling
The Prospector	4957	4959
The Tri-Cities Voyager	4963	4965

Tidewater Barge Line, Inc. submitted tax credit applications for two of their petroleum barges, *The Prospector* and *The Tri-Cities Voyager,* each claiming a vapor recovery system and double hull construction.

1. The vapor recovery systems eliminate all discharge of vapors from the vessels during loading and as such eliminate venting of VOCs into the Portland airshed. The Department's recommendation for approval of the vapor recovery system is consistent with a previous Commission action. On December 28, 1995, the Commission approved a similar tax credit application (#4417) from Tidewater Barge. The Commission determined that the vapor recovery system was eligible for certification as a pollution control facility under the sole purpose criteria.

   The vapor recovery systems claimed in the current applications includes overfill protection equipment similar to overfill protection equipment approved with the 1995 vapor recovery system.

2. The double hull construction provides a second hull to protect the cargo tanks from damage should the exterior hull become damaged or punctured. The earlier tax credit application (#4417) also included a claim for double hulling. At the December 28, 1995 meeting, the Commission determined that double hulling was not required by DEQ or EPA and therefore did not meet the principal purpose criteria. They also determined that double hulling did not meet the sole purpose criteria because it was not constructed exclusively for pollution control since it served other business purposes (improved safety of the vessel and crew, lowering insurance costs, meeting U.S. Coast Guard requirements and avoiding loss of petroleum product.) The Department recommendation to deny the double hull tax credit is consistent with the Commission's previous action.

Background REJECTIONS: Attachment E

The Commission is not required to act upon rejections. The Department presents all tax credit rejections in this Agenda Item because it is the official program record and it provides the applicant with an opportunity to address the Commission regarding the rejections before the Department actually rejects the application.

If the Department determines an application is incomplete for processing and the applicant fails to submit requested information within 180 days of the date when the Department requested the information; the Department will reject the application unless applicant

requests in writing additional time to submit requested information. OAR 340-016-0020 (1)(h) *Hist.: ...DEQ 6-1990, f. & cert. ef. 3-13-90*

Denial of Application Number 4570

Staff first presented the denial of application number 4570 to the Commission in Agenda Item B, November 21, 1997. However, the applicant requested that this application be pulled from the agenda. The applicant stated their intention to provide additional information that would substantiate the lease date as the date of substantial completion. The Department has not received additional information that would change the director's Recommendation.

The Department and the applicant, Willamette Industries, Inc., disagree on the date construction of the facility was substantially complete. The Department's assertion would make the facility ineligible for failure to file a timely application because the application was submitted after the two year period following substantial completion of the facility. *ORS 468.165(6)*

Application number 4570 was submitted on December 26, 1995, by Willamette Industries the owner and applicant of the claimed facility. Willamette Industries leased the facility to Far West Fibers, an independent recycling company, who began operations in the claimed facility on September 27, 1993. The lease between Willamette Industries and Far West Fibers was signed on January 1, 1994.

The applicant claims the date of substantial completion of the facility is January 1, 1994, the date the lease was signed. The applicant (the lessor of the facility) claims there was no lease between the independent recycling company and the applicant until January 1 1994; therefore the date of substantial completion of the facility should be determined to be the effective date of the lease. Since this date is within two years after construction of the facility was substantially completed, the applicant would have submitted a timely application according to rule.

Rejection of Application Number 4800

This application was pulled from the September 17, 1998 EQC Agenda Item B.

The Department will reject Willamette Industries' application number 4800 submitted on July 21, 1997. This date was prior to the rules adopted on May 1, 1998; therefore, the application was reviewed according to the rules in effect at the time. The Department received the application well within two years of the date the facility began operations.

On October 13, 1997, SJO Consulting Engineers requested additional information. On April 11, 1998, the 180 days in which Willamette Industries had to respond to the request for additional information passed. SJO returned the application and their report to the Department pursuant to the Tax Credit Coordinators instructions. However, on June 5, 1998, Willamette Industries responded to the request for additional information.

Based upon the additional information that Willamette Industries provided, the application would have been eligible for certification as a pollution control facility had they responded to the request for additional information within the 180 days. This information is reflected in the Review Report provided in *Attachment E - Department Rejections*

Background: Certificate Transfer - Attachment F
On October 29, 1998, Gerald J. Settje requested the transfer of Pollution Control Facility Certificate Number 3243 issued on December 10, 1993 to the new owner of the facility. A copy of the request and the original certificate are shown in Attachment F.

Background: Certificate Reissue - Attachment G

Dick Winn of Denton Plastics, Inc. and WWDD Partnership requested that three certificates be reissued as follows:

Certificate 3965 issued on 9/17/1998 was issued to:
WWDD Partnership
230 NW 10th
Portland, OR 97209

It should have been issued to:
Denton Plastics, Inc.
4427 NE 158th
Portland, OR 97230

Certificates 3971 and 3975 issued on 9/17/1998 was issued to:
Denton Plastics, Inc.
4427 NE 158th
Portland, OR 97230

They should have been issued to:
WWDD Partnership
230 NW 10th
Portland, OR 97209

Copies of the original certificates and the letter from Dick Winn are shown in Attachment G - Reissued Certificates.

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

Recommendation for Commission Action
The Department recommends the Commission approve certification for the tax credit applications as presented in Attachment B of the Department's Staff Report.

The Department recommends the Commission deny the applications presented in Attachment C of the Department's Staff Report.

The Department recommends the Commission discusses and takes action on the applications presented in Attachment D of the Department's Staff Report.

The Department respectfully asks the Commission to provide applicants with applications that will be rejected, as presented in Attachment E, with an opportunity to address the Commission if time allows.

The Department recommends the transfer of the tax credit certificate shown in Attachment F of the Department's Staff Report.

The Department recommends the reissue of the tax credit certificates shown in Attachment G of the Department's Staff Report.

Intended Follow-up Actions
Notify applicants of Environmental Quality Commission actions. Notify Department of Revenue of Issued, Transferred or Revoked certificates. Transmit electronic files to Department of Revenue.

Attachments

A. Summary
B. Approvals
C. Denials
D. Discussion and Action
E. Department Rejections
F. Certificate Transfer
G. Certificate Reissues

Reference Documents (available upon request)

1. ORS 468.150 through 468.190.
2. OAR 340-16-100 through 340-16-125.
3. OAR 340-16-005 through 340-16-050.
4. ORS 468.925 through 468.965.
5. OAR 340-17-010 through 340-17-055.

Approved:

Section: James Roy

Division:

Report Prepared by: Margaret Vandehey
Phone: (503) 229-6878
Date Prepared: November 5, 1998

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Attachment A

Summary

Listing by Application Number

App. No.	Action	Applicant	Certified Cost	Percent
4457	Approve	Portland General Electric Company	$2,054,682	100%
4463	Approve	Portland General Electric Company	$375,553	100%
4474	Approve	Portland General Electric Company	$231,953	100%
4570	Reject	Willamette Industries, Inc.	$2,596,818	100%
4688	Deny	Columbia Forrest Products, Inc.	$554,768	100%
4689	Approve	Intel Corporation	$1,257,568	100%
4696	Approve	International Paper Co.	$48,465	100%
4713	Approve	Intel Corporation	$262,091	100%
4745	Approve	Schult Homes Corp., Marlette	$20,938	100%
4749	Approve	The Halton Company	$238,230	100%
4751	Approve	Portland General Electric Company	$759,299	100%
4792	Approve	Willamette Industries, Inc.	$61,631	100%
4800	Reject	Willamette Industries, Inc.	$110,418	100%
4805	Approve	Valmont Industries, Inc.	$54,300	100%
4806	Approve	Willamette Industries, Inc.	$156,122	100%
4823	Approve	Homebuilders Northwest, Inc.	$13,305	100%
4836	Approve	Resco Plastics, Inc.	$9,500	100%
4840	Approve	Portland General Electric Company	$71,806	100%
4841	Approve	Portland General Electric Company	$123,110	100%
4862	Approve	Resco Plastics, Inc.	$13,385	100%
4894	Approve	Integrated Device Technology (IDT)	$612,835	100%
4903	Approve	Willamette Industries, Inc.	$45,788	100%
4910	Approve	Resco Plastics, Inc.	$2,500	100%
4912	Approve	WWDD	$9,791	100%
4914	Approve	Resco Plastics, Inc.	$5,179	100%
4926	Approve	Balzer Painting, Inc.	$131,173	100%
4936	Approve	Willamette Industries, Inc.	$11,638	100%
4938	Approve	Wimer Logging Company	$17,208	100%
4939	Approve	Georgia-Pacific Corp.	$788,845	100%
4942	Approve	Willamette Industries, Inc.	$16,336	100%
4945	Deny	Georgia-Pacific West, Inc.	$3,463,969	100%
4956	Approve	Roseburg Paving Co.	$239,360	100%
4957	Approve	Tidewater Barge Lines, Inc.	$237,000	100%
4959	Deny	Tidewater Barge Lines, Inc.	$775,000	100%
4963	Approve	Tidewater Barge Lines, Inc.	$250,000	100%
4965	Deny	Tidewater Barge Lines, Inc.	$775,000	100%
4975	Approve	Willamette Industries, Inc.	$48,645	100%
4976	Approve	Willamette Industries, Inc.	$213,407	100%
4982	Approve	Willamette Industries, Inc.	$52,755	100%
4983	Approve	Willamette Industries, Inc.	$56,303	100%
4984	Approve	Willamette Industries, Inc.	$53,237	100%
4985	Approve	Willamette Industries, Inc.	$53,042	100%
4988	Approve	Willamette Industries, Inc.	$57,820	100%
4990	Deny	Willamette Industries, Inc.	$49,254	100%
4993	Approve	Lamb-Weston, Inc.	$2,018,468	100%
4999	Approve	McEwen, Richard T.	$141,153	93%
5001	Approve	Capital City Companies, Inc.	$150,211	92%

Listing by Application Number

5003	Approve	International Paper	$34,153	100%
5005	Deny	Widmere Brothers Brewing Company	$276,673	100%
5021	Approve	NACCO Materials Handling Group,	$116,738	94%
5022	Approve	Truax Harris Energy, LLC	$289,506	93%
5024	Approve	L. & D., Inc. of Oregon	$61,880	98%
5028	Approve	Jerry Brown Company, Inc.	$144,692	90%
5035	Approve	Willamina Lumber Co.	$147,544	100%
5036	Approve	Willamina Lumber Co.	$390,846	100%
5043	Approve	Safeway, Inc.	$530,371	100%
5052	Approve	Campbell Crane & Rigging Service	$41,000	100%
5054	Approve	Sunshine Dairy Foods Inc.	$50,000	100%
5055	Approve	Sunset Fuel Company	$29,669	100%
5057	Approve	Norman H. & Vivian Faulkner	$79,508	92%
5059	Approve	WSCO Petroleum Corp	$166,175	91%
5060	Approve	Albany-Lebanon Sanitation, Inc.	$152,131	100%
5061	Approve	Albany-Lebanon Sanitation, Inc.	$189,877	100%
5062	Approve	United Disposal Service Inc.	$57,038	100%
5068	Approve	Leathers Enterprises	$193,663	89%
5069	Approve	Leathers Enterprises	$234,987	92%
5070	Approve	Leathers Enterprises	$191,382	91%
5071	Approve	Leathers Enterprises	$248,242	91%
5072	Approve	Leathers Enterprises	$165,100	89%
5073	Approve	Leathers Enterprises	$211,533	91%
5074	Approve	Leathers Enterprises	$260,913	93%
5075	Approve	Hyundai Semiconductor America,	$11,052,894	100%
5076	Approve	Hyundai Semiconductor America,	$2,184,755	100%
5077	Approve	Hyundai Semiconductor America,	$5,381,770	100%
5078	Approve	Miller's Sanitary Service, Inc.	$42,742	100%
5079	Approve	Delphia Oil, Inc.	$74,921	98%
5083	Approve	United Disposal Service Inc..	$14,959	100%
5084	Approve	Capitol Recycling & Disposal Co.	$16,910	100%
5085	Approve	David L. Towry, Sr.	$95,300	99%
5087	Approve	The Jerry Brown Company, Inc.	$113,696	99%
5088	Approve	Weldon's Enterprises, Inc.	$3,900	100%
5089	Approve	United Disposal Services, Inc.	$27,254	100%
5092	Approve	Jake's Truck Stop	$86,521	85%
5093	Approve	Georgia Pacific	$688,783	100%
5094	Approve	Pendleton Sanitary Service, Inc.	$48,486	100%
5095	Approve	Byrnes Oil Co., Inc.	$143,891	96%
5096	Approve	United Disposal Service, Inc.	$23,230	100%
5097	Approve	Dinty's Enterprises, Inc.	$88,477	89%
5098	Approve	McKee Farms	$67,005	68%
5099	Approve	Michael J. Monroe dba Bert's Auto	$49,650	100%
5106	Approve	Richard D. Baker/Russell Baker	$164,562	92%
5109	Approve	Hwy 99 Tire & Automotive Inc.	$4,497	100%
5110	Approve	Rexius Forest By-Products Inc.	$155,000	100%
5112	Approve	Jerry & Betty Marguth	$89,834	100%

Application Summary

Application Number	Applicant	Description of Facility	Facility Cost	Percent Allocable	Possible Tax Benefit
Approve - Pollution Control Facility Tax Credit					
Air					
4457	Portland General Electric Company	A catalytic reduction control system (SCR) for NOx reduction. MORFAB serial # R10835C3, various vaorizers model # F59-1HD, Dilution fans model # HP-8E23.	$2,054,682	100%	$1,027,341
4463	Portland General Electric Company	A multi-component continuous emissions monitor system (CEM) to measure, record and report cabon monoxide and NOx pollutant emissions from the exhaust stack.	$375,553	100%	$187,777
4474	Portland General Electric Company	Sludge Drying Bed	$231,953	100%	$115,977
4689	Intel Corporation	A noise abatement wall and two air systems: 1) Three Corrosive Exhaust Scrubbers, and 2) One VOC Abatement unit;	$1,257,568	100%	$628,784
4792	Willamette Industries, Inc.	Western Pneumatics baghouse - model #542.	$61,631	100%	$30,816
4894	Integrated Device Technology (IDT)	The facility's main component is the Volatile Organic Compound (VOC) abatement unit,Manufactured by Munters Corporation, Model #IZS-2400-TH.	$612,835	100%	$306,418
4926	Balzer Painting, Inc.	Two Bessemaire make-up handlers and one Bleeker drying booth used to paint, lacquer and stain doors, windows & mouldings.	$131,173	100%	$65,587
4939	Georgia-Pacific Corp.	Construction and Installation of the RTO to reduce the level of emissions.	$788,845	100%	$394,423
4956	Roseburg Paving Co.	One Gencor Baghouse, model #132 with 542 exhaust fan (40 hp).	$239,360	100%	$119,680
4957	Tidewater Barge Lines, Inc.	Vapor recovery system in the Prospector barge.	$237,000	100%	$118,500
4963	Tidewater Barge Lines, Inc.	Vapor Recovery System for Tri-Cities Voyager.	$250,000	100%	$125,000
4975	Willamette Industries, Inc.	A Dust Colletion System, model 96MCF88.	$48,645	100%	$24,323

Application Number	Applicant	Description of Facility	Facility Cost	Percent Allocable	Possible Tax Benefit
Air continued					
4976	Willamette Industries, Inc.	A Qualair baghouse dust collection System.	$213,407	100%	$106,704
4988	Willamette Industries, Inc.	An upgrade of existing sawdust collection system using a Western Pneumatic 200 primary filter, model BH2.	$57,820	100%	$28,910
5075	Hyundai Semiconductor America, Inc.	A Volatile Organic Compound (VOC) Abatement System and an Acid Exhaust Abatement System	$11,052,894	100%	$5,526,447
5109	Hwy 99 Tire & Automotive Inc.	R-12 & R-134A recovery and recycling machine	$4,497	100%	$2,249
Air (16 applications)			**$17,617,863**		**$8,808,932**
Air/Noise					
4903	Willamette Industries, Inc.	A MAC Equipment Inc. bagfilter, model # 96-MCF-153, serial # 95-FMCF-09-008	$45,788	100%	$22,894
Air/Noise (1 application)			**$45,788**		**$22,894**
Field Burning					
5098	McKee Farms	A 120' x 80' x 20' storage barn for grass seed straw	$67,005	68%	$22,782
5106	Richard D. Baker/Russell Baker	A 24x124x270 pole building with painted metal siding for the storage of straw	$164,562	92%	$75,698
5112	Jerry & Betty Marguth	A storage shed for straw 100' x 125' x 22'	$89,834	100%	$44,917
Field Burning (3 applications)			**$321,401**		**$143,397**
Hazardous Waste					
4713	Intel Corporation	Equipment includes a waste solvent collection system, piping, stainless steel sumps, tanks, pumps, leak detection devices and containment coatings.	$262,091	100%	$131,046
Hazardous Waste (1 application)			**$262,091**		**$131,046**
Noise					
4942	Willamette Industries, Inc.	Noise control earth berm construction at the site's perimeter.	$16,336	100%	$8,168
4982	Willamette Industries, Inc.	Ten steam vent silencers	$52,755	100%	$26,378
Noise (2 applications)			**$69,091**		**$34,546**

Application Number	Applicant	Description of Facility	Facility Cost	Percent Allocable	Possible Tax Benefit
Solid Waste					
5060	Albany-Lebanon Sanitation, Inc.	1997 Volvo front loading truck, model EX64, serial number 4VMDCMME6VR742559 for cardboard recycling	$152,131	100%	$76,066
5061	Albany-Lebanon Sanitation, Inc.	A 1998 Volvo truck model WXR42T serial Number 4VLEALPF9WM754565 and one Rapid Rail Starr System trailer for the collection and transport of yard debris.	$189,877	100%	$94,938
5062	United Disposal Service Inc.	1250 Schaefer 95 gallon yard debris carts serial numbers #YD9500001 through #YD9501250	$57,038	100%	$28,519
5083	United Disposal Service Inc..	Five 30-yd SC style drop boxes	$14,959	100%	$7,480
5084	Capitol Recycling & Disposal Co.	Twenty 4-yd front load expanded metal cardboard recycling containers with one piece steel lid locks and bolt on casters. Serial numbers 139779 thru 139798. Twenty 6-yd front load expanded metal cardboard recycling containers with no lids and no casters, without serial numbers	$16,910	100%	$8,455
5089	United Disposal Services, Inc.	Five 20-yd SC style drop boxes, serial nos: 10605 through 10609 & five 30-yd SC style drop boxes, serial nos: 10590 through 10594.	$27,254	100%	$13,627
5094	Pendleton Sanitary Service, Inc.	Site preparation for a recycling facility and six recycling drop boxes	$48,486	100%	$24,243
5096	United Disposal Service, Inc.	Two SC style 30-yd drop boxes and four SC style 48.9-yd drip boxes	$23,230	100%	$11,615
5099	Michael J. Monroe dba Bert's Auto Salvage	Recycle tire baling equipment and encasing equipment	$49,650	100%	$24,825
5110	Rexius Forest By-Products Inc.	A Peterson HC 7400 Wood Recycler Ser. # 18-01-377	$155,000	100%	$77,500
Solid Waste (10 applications)			**$734,534**		**$367,267**
USTs					
4999	McEwen, Richard T.	(Two doublewall fiberglass clad steel tanks (one has 2-compartments), doublewall flexible plastic piping, spill containment basins, automatic tank gauge system, overfill alarm, turbine leak detectors, sumps, oil/water separator, automatic shutoff valves, stage I vapor recovery and monitoring wells.	$141,153	93%	$65,636
5001	Capital City Companies, Inc.	Tank upgrade	$150,211	92%	$69,097

Application Number	Applicant	Description of Facility	Facility Cost	Percent Allocable	Possible Tax Benefit
USTs continued					
5021	NACCO Materials Handling Group, Inc.	One doublewall fireguard aboveground tank (with two compartments) and an oil/water separator.	$116,738	94%	$54,867
5022	Truax Harris Energy, LLC	Stage I fill pipes and spill containment basins. Dbl wall tanks with fiberglass turbine sumps and manholes. Dbl wall pipe, pump containment boxes. Tank gauge alarm and sensor system. Oil/water separator & drainage system (2 separators are required).	$289,506	93%	$134,620
5024	L. & D., Inc. of Oregon	Doublewall flexible plastic piping, cathodic protection on three existing steel underground storage tanks, spill containment basins, automatic tank gauge system, overfill alarm and sumps.	$61,880	98%	$30,321
5028	Jerry Brown Company, Inc.	Two doublewall fiberglass tanks, doublewall flexible plastic piping, spill containment basins, automatic tank gauge system, turbine leak detectors, sumps, automatic shutoff valves and stage II vapor recovery piping.	$144,692	90%	$65,111
5055	Sunset Fuel Company	Epoxy lining and impressed current cathodic protection on two existing steel underground storage tanks and piping, spill containment basins and underground preparation for an automatic tank gauge system.	$29,669	100%	$14,834
5057	Norman H. & Vivian Faulkner	One doublewall fiberglass clad steel tank (two compartment), doublewall flexible plastic piping, spill containment basins, automatic tank gauge system, overfill alarm, line leak detectors, sumps, automatic shutoff valves and Stage II vapor recovery piping.	$79,508	92%	$36,574
5059	WSCO Petroleum Corp	Three doublewall fiberglass clad steel tanks, flexible plastic piping, spill containment basins, automatic tank gauge system, overfill alarm, line leak detectors, sumps, oil/water separator, automatic shutoff valves and Stage I vapor recovery.	$166,175	91%	$75,610
5068	Leathers Enterprises	Two doublewall fiberglass-clad steel tanks (one with two compartments), doublewall flexible plastic piping, automatic tank gauge system, overfill alarm, spill containment basins, monitoring wells, sumps, automatic shutoff valves and Stage I vapor recovery and Stage II vapor recovery piping.	$193,663	89%	$86,180

Application Number	Applicant	Description of Facility	Facility Cost	Percent Allocable	Possible Tax Benefit
USTs continued					
5069	Leathers Enterprises	Two doublewall fiberglass-clad steel tanks (one with two compartments), doublewall flexible plastic piping, automatic tank gauge system, overfill alarm, spill containment basins, monitoring wells, sumps, oil/water separator, automatic shutoff valves and Stage I vapor recovery and Stage II vapor recovery piping.	$234,987	92%	$108,094
5070	Leathers Enterprises	Three doublewall fiberglass-clad steel tanks doublewall flexible plastic piping, automatic tank gauge system, overfill alarm, spill containment basins, line/turbine leak detectors, monitoring wells, sumps, oil/water separator, automatic shutoff valves and Stage I vapor recovery and Stage II vapor recovery piping.	$191,382	91%	$87,079
5071	Leathers Enterprises	Three doublewall fiberglass-clad steel tanks, doublewall flexible plastic piping, automatic tank gauge system, overfill alarm, spill containment basins, turbine leak detectors, sumps, automatic shutoff valves, stage I vapor recovery and Stage II vapor recovery piping. Monitoring wells and an oil/water separator.	$248,242	91%	$112,950
5072	Leathers Enterprises	Two doublewall fiberglass-clad steel tanks (one tank has two compartments), doublewall flexible plastic piping, automatic tank gauge system, overfill alarm, spill containment basins, turbine leak detectors, monitoring wells, sumps, oil/water separator, automatic shutoff valves and Stage I vapor recovery and Stage II vapor recovery piping.	$165,100	89%	$73,470
5073	Leathers Enterprises	Two doublewall fiberglass-clad steel tanks (one with two compartments), doublewall flexible plastic piping, automatic tank gauge system, overfill alarm, spill containment basins, monitoring wells, sumps, oil/water separator, automatic shutoff valves and Stage I vapor recovery and Stage II vapor recovery piping.	$211,533	91%	$96,248

Application Number	Applicant	Description of Facility	Facility Cost	Percent Allocable	Possible Tax Benefit
USTs continued					
5074	Leathers Enterprises	Two doublewall fiberglass-clad steel tanks (one tank has two compartments), doublewall flexible plastic piping, automatic tank gauge system with overfill alarm, spill containment basins, turbine leak detectors, sumps, oil/water separator, automatic shutoff valves, Stage I vapor recovery, Stage II vapor recovery piping and monitoring wells.	$260,913	93%	$121,325
5078	Miller's Sanitary Service, Inc.	One doublewall fiberglass lined steel aboveground tank (with two compartments) with overfill prevention and interstitial leak detection equipment.	$42,742	100%	$21,371
5079	Delphia Oil, Inc.	2 OPW #1 spill containment units; 2 CNI spill containment units; 2 OPW 61-50 overfill prevention valves and 2 DS2316 underpump spill containment basins	$74,921	98%	$36,711
5085	David L. Towry, Sr.	Epoxy lining in three steel underground tanks, flexible plastic piping, spill containment basins, automatic tank gauge system, overfill alarm, turbine leak detectors, sumps, oil/water separator and automatic shutoff valves.	$95,300	99%	$47,174
5087	The Jerry Brown Company, Inc.	Epoxy lining and impressed current cathodic protection on two steel undergrouns tanks, doublewall flexible plastic piping, spill containment basins, automatic tank gauge system, turbine leak detectors, sumps, monitoring well and automatic shutoff valves.	$113,696	99%	$56,279
5092	Jake's Truck Stop	two doublewall fiberglass clad steel underground storage tanks, doublewall flexible plastic pipine, spill containment basins, automatic tank gauge system, turbine leak detectors, sumps and automatic shutoff valves.	$86,521	85%	$36,771
5095	Byrnes Oil Co., Inc.	One fiberglass underground storage tank, epoxy lining of two existing steel tanks, doublewall flexible plastic piping, spill containment basins, automatic tank gauge system, overfill alarm, turbine leak detectors, sumps, automatic shutoff valves and Stage I vapor recovery equipment.	$143,891	96%	$69,068

Application Number	Applicant	Description of Facility	Facility Cost	Percent Allocable	Possible Tax Benefit
USTs continued					
5097	Dinty's Enterprises, Inc.	Two doublewall fiberglass/steel underground storage tanks, doublewall flexible plastic piping, spill containment basins, automatic tank gauge system, overfill alarm, turbine leak detectors, sumps, oil/water separator and automatic shutoff valves.	$88,477	89%	$39,372
USTs (23 applications)			**$3,330,899**		**$1,538,762**
Water					
4696	International Paper Co.	Asphalt containment system	$48,465	100%	$24,233
4745	Schult Homes Corp., Marlette Homes, Inc	Diagenex Water Filtration System - FiltraPak LHS-500	$20,938	100%	$10,469
4749	The Halton Company	High Pressure Hot Water Cleaning Equipment	$238,230	100%	$119,115
4751	Portland General Electric Company	Oil Mist Eliminator Facility	$759,299	100%	$379,650
4805	Valmont Industries, Inc.	Piping, Collection Basin, & Bio-Swale for the treatment of Storm Water.	$54,300	100%	$27,150
4806	Willamette Industries, Inc.	Self-contained closed loop system, where wash water is filtered and recycled.	$156,122	100%	$78,061
4823	Homebuilders Northwest, Inc.	Diagenex Model LMS-200 Filta Pak Soilds Removal System.	$13,305	100%	$6,653
4840	Portland General Electric Company	Geomembrane liner, 15,000 gal. oil-water separator and associated piping system.	$71,806	100%	$35,903
4841	Portland General Electric Company	Geomembrane liner,oil/water separator, associated piping system.	$123,110	100%	$61,555
4936	Willamette Industries, Inc.	Building & concrete enclosure to provide containment for the hydraulic unit in the event of hydraulic leak or rupture.	$11,638	100%	$5,819
4938	Wimer Logging Company	24 ft x 56 ft concrete wash slab and oil/water/grit separator tank	$17,208	100%	$8,604
4983	Willamette Industries, Inc.	A concrete containment struction 20' W x 28' L x 48" H with a 12,000 gallon sulfuric acid storage tank.	$56,303	100%	$28,152
4984	Willamette Industries, Inc.	A Waste Water Contaminant Removal System	$53,237	100%	$26,619
4985	Willamette Industries, Inc.	Effluent pump backup power	$53,042	100%	$26,521

Application Number	Applicant	Description of Facility	Facility Cost	Percent Allocable	Possible Tax Benefit
Water continued					
4993	Lamb-Weston, Inc.	Wastewater treatment system consisting of an Eimco Model 600R Delta-Stak clarifier, a 88 foot Eimco concrete conventional clarifier, Penn Valley 4-inch sludge pump, Eimco vacuum filter #82892-01, Waukesha SP100 cake transfer pump, waste hopper bins, oil tank, pumps, piping, electrical controls, building and related structures.	$2,018,468	100%	$1,009,234
5003	International Paper	Spill containment system with concrete paving and curbing	$34,153	100%	$17,077
5035	Willamina Lumber Co.	An equipment wash facility	$147,544	100%	$73,772
5036	Willamina Lumber Co.	Stormwater and erosion control paving and a sediment detention pond were installed as stormwater management measures.	$390,846	100%	$195,423
5043	Safeway, Inc.	A pH neutralization system and reduce the amount of Biological Oxygen Demand and Suspended Solids in Milk Plant wastewater by 50%	$530,371	100%	$265,186
5052	Campbell Crane & Rigging Service Inc.	A waste water treatment facility.	$41,000	100%	$20,500
5054	Sunshine Dairy Foods Inc.	A pH neutralization system.	$50,000	100%	$25,000
5076	Hyundai Semiconductor America, Inc.	installed a stormwater containment & recycling system	$2,184,755	100%	$1,092,378
5077	Hyundai Semiconductor America, Inc.	A Hydrofluoric Acid (HF) Batch Neutralizaiton System and an Acid Waste Neutralization (AWN) System	$5,381,770	100%	$2,690,885
5088	Weldon's Enterprises, Inc.	Five pan placed under a perc dry cleaning machine to contain any spills of solvent.	$3,900	100%	$1,950
5093	Georgia Pacific	Waste Water treatment facility expansion	$688,783	100%	$344,392
Water (25 applications)			**$13,148,593**		**$6,574,297**
		Summary for Pollution Control Facility Tax Credit (81 applications)	**$35,530,260**		**$17,621,139**

Application Number	Applicant	Description of Facility	Facility Cost	Percent Allocable	Possible Tax Benefit
Reclaimed Plastics Products Tax Credit					
Plastics					
4836	Resco Plastics, Inc.	50 Hp Pulverizer to grind start up lumps.	$9,500	100%	$4,750
4862	Resco Plastics, Inc.	150 hp SCR Drive, 150 hp Motor & Transformer, CTC 2 hp Drive & 5 hp 1750, 2050 RPTI DC Motor with all materials for Extruder.	$13,385	100%	$6,693
4910	Resco Plastics, Inc.	Equipment purchases from Dog Food Plant, 4 Bucket Elevators, 1 Heater/Dryer, 1 Vacuum System.	$2,500	100%	$1,250
4912	WWDD	A discharge cyclone, evacuation and dust removal system for processing regrind	$9,791	100%	$4,896
4914	Resco Plastics, Inc.	GALA spin dryer	$5,179	100%	$2,590
Summary for Reclaimed Plastics Products Tax Credit (5 applications)			**$40,355**		**$20,178**
Summary for Approval of 86 applications			**$35,570,615**		**$17,641,316**

Application Number	Applicant	Description of Facility	Facility Cost	Percent Allocable	Possible Tax Benefit
Deny - Pollution Control Facility Tax Credit					
Air					
4688	Columbia Forrest Products, Inc.	INSTALLATION OF ELECTROSTATIC PRECIPITATOR	$554,768	100%	$277,384
4945	Georgia-Pacific West, Inc.	Electrostatic Precipitator (ESP) to remove particulate matter from the hog fuel boiler emissions.	$3,463,969	100%	$1,731,985
Air (2 applications)			**$4,018,737**		**$2,009,369**
Solid Waste					
4990	Willamette Industries, Inc.	An upgrade to an existing sawdust collection system with a Western Pneumatic 200 baghouse, model BH2.	$49,254	100%	$24,627
5005	Widmere Brothers Brewing Company	A solid waste handling system for spent grains	$276,673	100%	$138,337
Solid Waste (2 applications)			**$325,927**		**$162,964**
Water					
4959	Tidewater Barge Lines, Inc.	Double Hull Vessel to create a void between the cargo area and water.	$775,000	100%	$387,500
4965	Tidewater Barge Lines, Inc.	Double Hull Vessel to create a void between the cargo area and water.	$775,000	100%	$387,500
Water (2 applications)			**$1,550,000**		**$775,000**
Summary for Denial of 6 applications			**$5,894,664**		**$2,947,332**

Application Number	Applicant	Description of Facility	Facility Cost	Percent Allocable	Possible Tax Benefit
Reject					
Pollution Control Facility Tax Credit					
Air					
4800	Willamette Industries, Inc.	An 80,000 ACFM negative air collection system to reduce the fugitive emissions escaping into the atmosphere.	$110,418	100%	$55,209
Air (1 application)			**$110,418**		**$55,209**
Solid Waste					
4570	Willamette Industries, Inc.	Ebterprise Baler (Model 16-ezrrb-200), Kraus Baler Conveyor (93KRACONV0050) Krause Sorting Conveyer (93KRACONV0050), Michigan Wheel Loader (SN L-70v61201), Mitsubishi 6Mlb Fork Trk (SNAF89A-00546), Mitsubishi 6Mlb Fork Trk(SNAF89A-00529)etc	$2,596,818	100%	$1,298,409
Solid Waste (1 application)			**$2,596,818**		**$1,298,409**
Summary for Department Rejections of 2 applications			**$2,707,236**		**$1,353,618**

Attachment B

Approvals

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant **Portland General Electric Company**
Application No. **4457**
Facility Cost **$2,054,682**
Percentage Allocable **100%**
Useful Life **10 years**

Pollution Control Facility Tax Credit: Air Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

The applicant is a C corporation operating as a supplier of electrical energy taking tax relief under taxpayer identification number 93-0256820. The applicant's address is:

121 SW Salmon St.
1WTC-0402
Portland, OR 97204

The certificate will identify the facility as:

A catalytic reduction control system (SCR) for NO_x reduction.
MORFAB serial # R10835C3,
Various vaporizers model # F59-1HD,
Dilution fans model # HP-8E23.

The applicant is the owner of the facility located at:

Coyote Springs
200 Ullman Blvd.
Boardman, OR 97818

Technical Information

SCR is a post-combustion NO_x control technology that is applied at the exhaust end of the gas turbine system. Ammonia is injected into the exhaust gas upstream of the catalyst bed. The ammonia reacts with the NO_x to form molecular nitrogen and water vapor. The effectiveness of the SCR process relies on flue gas temperature, amount of catalyst, and ratio of ammonia to NO_x in the flue gas stream.

Eligibility

ORS 468.155 (1)(a) The **principal purpose** of this **new equipment** is to prevent, control or reduce a substantial quantity of air pollution. The SCR was installed to keep NO_x emissions below the 4.5 ppm levels required in their permit.

ORS 468.155 (1)(b) The disposal or elimination of or redesign to eliminate air contamination sources and the use of air cleaning devices as defined in ORS 468A.005

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**06/28/1995**
Application Substantially Complete	**11/23/1997**
Construction Started	**08/12/1993**
Construction Completed	**11/15/1993**
Facility Placed into Operation	**11/15/1995**

Facility Cost

Raytheon contract engineering design, construction and indirect	$ 1,968,189
PGE Internal Cost	151,805
Construction overhead & storeroom loading ($3)	1,821
Claimed on Application	**$ 2,121,815**
Raytheon invoice duplicated in contract costs	(58,116)
Capitalized property tax	(584)
Legal Fees	(5,641)
Land lease - Port of Morrow	(2,792)
	$ 2,054,682

Cost allocation documentation substantiate the cost of the facility and a certified public accountant's statement, performed by Coopers and Lybrand, LLP.

Marina, McCoy & Co., P.C. provided the independent accounting review on behalf of the Department. PGE included engineering, materials and direct labor costs in the application. Indirect company costs, captioned construction overhead, material loading costs, legal services, land lease costs, permits and licenses and capitalized property taxes were included in the application.

Facility Cost Allocable to Pollution Control

According to ORS 468.190(1), the Department considered the following factors in the determination of the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	No return on investment.
ORS 468.190(1)(c) Alternative Methods	Alternative methods compared.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Reviewers: Cascade Earth Sciences - RAD, SKR
Marina McCoy Gerritz, P.C.
Dave Kauth

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation:	**Approve – as used in conjunction with the facility claimed on application number 4457**
Applicant	**Portland General Electric Co.**
Application No.	**4463**
Facility Cost	**$375,553**
Percentage Allocable	**100%**
Useful Life	**10 years**

Pollution Control Facility Tax Credit: Air
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Information

The applicant is a C corporation operating as a supplier of electrical energy taking tax relief under taxpayer identification number 93-0256820. The applicant's address is:

121 SW Salmon St.
1WTC-04-02
Portland, OR 97204

Facility Information

The claimed facility is:
A multi-component continuous emissions monitor system (CEM) to measure, record and report carbon monoxide and NOx pollutant emissions from the exhaust stack.

The applicant is the owner of the facility located at:

200 Ullman Blvd
Boardman, OR 97818

Technical Information

A continuous monitoring system was required by the DEQ. The system uses various sampling probes in the exhausts. Gas samples from the exhausts run to the NOx and CO monitors located in an adjacent building. The system has a flow monitor to calculate emissions on an absolute (lb/hr) basis and an oxygen analyzer to calibrate emission readings. Based on experience with similar systems, the system will have less than a 5% error factor. The system will be used to meet regulatory reporting requirements and will be used to detect upward trends in plant emissions of NOx and CO. This information will be used to change plant operating conditions so that emissions remain within permitted limits. The claimed facility is for monitoring emissions as required by the Air Contaminant Discharge Permit. By itself the CEMS does not reduce emissions but used in conjunction with the Selective Catalytic Reduction (SCR) facility claimed in tax credit application number 4457 it does provide pollution control.

Eligibility

ORS 468.155 (1)(a) The **Principal purpose** of the **new installation, equipment and devices is** to meet the monitoring requirements of the Air Contaminant Discharge Permit No 25-0031 (DEQ) and 40CFR 60, Part 75 – Monitoring requirements (EPA), not to prevent, control or reduce air pollution.

ORS 468.155 (1)(b)(B) The claimed facility is a monitoring system and not an air-cleaning device as defined in ORS 468A.005. However, when used in conjunction with the Selective Catalytic Reduction (SCR) facility claimed in tax credit application number 4457 it does provide pollution control.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**06/28/1995**
Application Substantially Complete	**11/23/1997**
Construction Started	**08/12/1993**
Construction Completed	**08/12/1993**
Facility Placed into Operation	**11/15/1995**

Facility Cost

Facility Cost	**$ 500,738**
Ineligible Costs	(125,185)
Eligible Facility Cost	**$375,553**

Summarized contractor invoices substantiate the cost of the facility and a certified public accountant's statement, by Coopers and Lybrand L.L.P., accompanied the application Based on additional information submitted by PGE and a conversation with the engineer at the facility, 75% of the claimed cost is directly or indirectly related to contol of the ammonia injection rate for the SCR, claimed in appliation 4457. The other 25% of the claimed cost is strickly for monitoring and has no ties to pollution control.

Facility Cost Allocable to Pollution Control

According to ORS 468.190(3), the applicant considered the following factors in the determination of the facility cost is 100% allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility for the return on investment is 30 years.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	Not a pollution control facility.

Reviewers: Cascade Earth Science, LTD
Dave Kauth
M.C. Vandehey

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant **Portland General Electric Company**
Application No. **4474**
Facility Cost **$231,953**
Percentage Allocable **100%**
Useful Life **10 years**

Pollution Control Facility Tax Credit: Water
ORS 468.150 -- 468.190
Final Certification

The applicant is a C corporation operating as a supplier of electrical energy taking tax relief under taxpayer identification number 93-0256820. The applicant is the owner of the facility. The applicant's address is:

121 SW Salmon St.
1WTC-04-02
PORTLAND, OR 97204

The certificate will identify the facility as

Sludge Drying Bed

The coal fired electrical power generating facility is located at:

Carty Reservoior Power Site
Boardman, OR 97818

Eligibility

The wash water from the coal handling facility contains coal fines that need to be removed before the water can be discharged to the reservoir. It consists of a central coal–slurry–collection sump that has a Flygt (model CP3140-480) 15hp sump pump that feeds three Blace filters (model 166D.) Each filter unit has 60 square feet of filtration area. There is a filter pre-coat and backwash system that support the filters supplied by Blace Filtronics. The claimed facility also includes the necessary piping, controls and a new 16' by 28' metal building housing the system.

ORS 468.155 (1)(a) The **principal purpose** of this **new installation** is to reduce a substantial quantity of water pollution as required by DEQ under OAR 340-041-0655. The applicant's Water Pollution Control facilities Permit Number 100189, Schedule A, Numbers 2 and 8 requires the permittee to treat the wash water from the coal handling area before discharge to the reservoir.

ORS 468.155 (1)(b)(A) The disposal or elimination of or redesign to eliminate the use of treatment works for industrial waste as defined in ORS 468B.005.

OAR-016-025 (2)(g) Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**07/03/1995**
Application Substantially Complete	**11/23/1997**
Construction Started	**04/01/1995**
Construction Completed	**05/31/1995**
Facility Placed into Operation	**05/31/1995**

Facility Cost

Facility Cost		**$253,499**
Ineligible Costs		
	Corporate expenditure pool	-$ 21, 546
Eligible Facility Cost		**$231,953**

Documentation substantiated the cost of the facility and an certified public accountant's statement accompanied the application. A distict portion of the claimed expenses were allocated from the corporate expenditure pools which would have been incurred without the insstallation of this facility.

Facility Cost Allocable to Pollution Control

According to ORS 468.190(1), the Department considered the following factors in the determination of the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	A portion of the waste product is converted into a salable or useable commodity consisting of 1,500 tons per year of recovered coal fines that are used as fuel for the generation of electricity.
ORS 468.190(1)(b) Return on Investment	Useful life 20 years. The average annual cash flow is $4,836 as a result of the value of the recovered coal less operating costs. The annual return on investment is 0%
ORS 468.190(1)(c) Alternative Methods	The applicant considered mixing the coal slurry with the bottom ash, but due to design problems with the existing systems this alternative was too expensive to pursue.
ORS 468.190(1)(d) Savings or Increase in Costs	There is a $30,000 per year savings from recovered coal. The cost of maintaining and operating the facility is $25,164 annually.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.
Reviewer: Dennis Cartier, SJO Consulting Engineers

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant	**Intel Corporation**
Application No.	**4689**
Facility Cost	**$ 1,257,568**
Percentage Allocable	**100%**
Useful Life	**10 years**

Pollution Control Facility: Air
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a microcomputer chip manufacturer. The applicant is the owner of the facility and will be taking tax relief under taxpayer identification number 94-1672743. The applicant's address is:

Oregon Division
3065 Bowers Avenue
Santa Clara, CA 95051

Facility Identification

The certificate will identify the facility as:

A Noise Abatement Wall and two air systems:
1) **Three Corrosive Exhaust Scrubbers, and**
2) **One VOC Abatement unit;**

The facility is located at:

5200 NE Elam Young Parkway
Hillsboro, OR 97124

Technical Information

The application is for three systems:

1) **Noise Abatement Wall.** The noise abatement wall is installed across the south end of the building and provides an acoustic barrier for the noise generated by the scrubber and VOC exhaust fans. Structural steel was furnished, installed and painted, modifying the previously existing roof, and approximately 4500 square feet of steel clad panels were added. Directly across the street from the building is a residential zone. Final environmental noise measurements were performed and indicate that the noise levels are below the maximum allowable levels under OAR 340-35-0035. This wall provides an adequate noise barrier to protect the neighborhood from an otherwise noisy condition.

2) **Three Corrosive Exhaust Scrubbers** The scrubbed exhaust system treats corrosive exhaust such as sulfuric acid, nitric acid, hydrochloric acid, and sodium hydroxide which is generated throughout the manufacturing plant. The scrubbed exhaust system cost includes all labor, equipment, and materials necessary to modify the existing scrubber system by providing for the addition of three scrubbers (SC-7-1-3, SC-7-1-4, and SC-7-1-7), 4 scrubber fans (EF-7-2-3, EF-7-

2-4, EF-7-2-7-1 and EF-7-2-7-2), 9 scrubber recirculation pumps (P-7-1-3-1,-2,-3, P-7-1-4-1,-2,-3, and P-7-1-7-1,-2,-3), 2 centrifugal caustic (NaOH) feed pumps (P-7-6-1 and P-7-6-2), back draft dampers, isolation dampers and electrical equipment and installation. The scrubbed exhaust system is an acceptable system for preventing air pollution.

3) **A VOC Abatement Unit.** The VOC Abatement system consists of one Kreha carbon adsorbing unit with 1500 cfm capacity. Approximately 90% of most VOC compounds are removed from the air stream and condensed to a liquid, then collected with other plant bulk solvents and disposed of off site. The VOC abatement system is an acceptable method for removing VOCs and reducing air pollution.

Eligibility

Noise Abatement Wall

ORS 468.155 (1)(a)(B) The **sole purpose** of the **new** noise abatement wall is to prevent, control or reduce a substantial quantity of noise pollution;

ORS 468.155 (1)(b)(C) The substantial reduction of noise pollution or noise emission sources as defined by rule of the commission.

Corrosive Exhaust Scrubbers & VOC Abatement System

ORS 468.155 (1)(a)(A) The **principal purpose** of this **new** scrubber is to reduce a substantial quantity of air pollution. The DEQ imposes the requirement under ORS 468 and Air Permit #34-2681.

ORS 468.155 (1)(b)(B) The pollution control is accomplished by the use of air cleaning devices as defined in ORS 468A.005.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**11/6/96**
Additional Information Requested	**8/4/97**
Additional Information Received	**2/3/98**
Additional Information Requested	**3/17/98**
Additional Information Received	**5/13/98**
Additional Information Requested	**5/22/98**
Additional Information Received	**6/26/98**
Application Substantially Complete	**6/26/98**
Construction Started	**12/93**
Construction Completed	**7/95**
Facility Placed into Operation	**7/95**

Facility Cost

Claimed Facility Cost		**$ 8,992,647**
Ineligible Costs		
Indirect Costs	72,502	
Solvent Exhaust System	3,291,975	
Ductwork and Collection Equipment	4,370,602	
		(7,735,079)
Eligible Facility Cost		**$ 1,257,568**

Kessler & Company, PC provided the certified public accountant's statement on behalf of the applicant. Symonds, Evans & Larson, P.C. provided the Independent Accountant's Report on behalf of the Department.

Intel apportioned the indirect costs relative to the claimed facility cost as a percentage of the total D1E project cost. However, the following allocations did not substantially contribute to pollution control or were not properly allocated to the claimed facility.

TDC Fees & Incentives	TDC Project Management cost (variable fee based on performance).
Other Consultants	Outside consultants who provided a service to IDC for the D1E project.
Supervision	Construction oversight
General Conditions	Direct expense expenditures of the general contractor.
Rentals & Temp Structures	Rented or temporary construction offices and structures.
Cleanup	End of project cleanup
Site Logistics	Items associated with staging construction materials throughout site.
Intel Project Team Expense	Intel staff performing project management and technical reviews.
PTD Expense	Portland Technology Development, Intel staff performing project management and technical reviews.

Symonds, Evans & Larson, P.C. recalculated the eligible indirect costs ($211,093) included in the adjusted Facitiy Cost by multiplying the allowable direct costs of the facility ($1,046,475) by the ratio of the related indirect costs of the entire D1E project ($19,415,296) to the total direct costs of the entire D1E project ($96,249,258).

The original application included a solvent exhaust system, exhaust ductwork and other mechanical work which Intel later removed from the application. The solvent exhaust system was removed because it is being modified. The ductwork and other mechanical work were removed because they are part of Intel's material conveyance system or their primary and most important purpose is to create an internal environment that is safe and conducive to the manufacture of microcomputer chips.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost exceeds $50,000 and therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 10 years. No gross annual revenues associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.
DEQ permits issued to facility:
Air Permit #34-2681, and
NPDES #100917.

Reviewers: Lois L. Payne, P.E., SJO Engineers
Dennis Cartier, Associate, SJO Engineers
Dave Kauth, DEQ
Symonds, Evans & Larson, CPA PC
Maggie Vandehey, DEQ

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation:	APPROVE
Applicant	**International Paper Co.**
Application No.	**4696**
Facility Cost	**$48,465**
Percentage Allocable	**100%**
Useful Life	**10 years**

Pollution Control Facility Tax Credit: Water
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C Corporation operating as a paper mill taking tax relief under taxpayer identification number. The Applicant is the owner of the facility. The applicant's address is:

International Paper Co.
Gardiner Paper Mill
PO Box 854
Gardiner, OR 97441

Facility Identification

The certificate will identify the facility as:

Concrete paving of the lime mud reclaim storage area of the recaustizing plant.

The facility is located at:

Gardiner Paper Mill
77622 US Highway 101
Gardiner, OR 97441

Technical Information

The claimed facility replaced an area of asphalt paving where lime mud is stored. Concrete is more durable and less permeable, and assures that leachate be collected and diverted to the wastewater treatment facility of the mill.

Eligibility

ORS 468.155 (1)(a) The **sole purpose** of this **new installation** is to prevent a substantial quantity of water pollution. The cement paving is impermeable to the lime mud leachate.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**11/12/1996**
Application Substantially Complete	**10/30/1998**
Construction Started	**10/17/1994**
Construction Completed	**11/17/1994**
Facility Placed into Operation	**11/28/1994**

Facility Cost

Facility Cost		**$48,465**
Salvage Value	$	-
Government Grants	$	-
Other Tax Credits	$	-
Ineligible Costs	$	-
Eligible Facility Cost		**$48,465**

Invoices, canceled checks or a cost summary did not accompany the application. Davis, Yecny & MuCulloch, P.C. provided the certified public accountant's statement.

Facility Cost Allocable to Pollution Control

According to ORS.190 (3), the only factor used to determine the percentage of the facility cost allocable to pollution control was the percentage of time the facility is used for pollution control. The facility is used 100% of the time for pollution control. Therefore, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with the terms and conditions of its NPDES Permit 101468. Other DEQ permits issued to the mill: ACD Permit No. 10-0036 & Stormwater NPDES General Permit 1200P.

Reviewers: Renato Dulay
M.C. Vandehey

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant	**Intel Corporation**
Application No.	**4713**
Facility Cost	**$262,091**
Percentage Allocable	**100%**
Useful Life	**10 years**

Pollution Control Facility Tax Credit: Hazardous Waste
Final Certification
ORS 468.150 -- 468.190
OAR 340-16-0005 -- 340-16-050

Applicant Identification

The applicant is a C Corporation operating as a manufacturer of microcomputer chips taking tax relief under taxpayer identification number 94-1672743. The Applicant is the owner of the facility. The applicant's address is:

Oregon Site
3065 Bowers Ave.
Santa Clara, CA 95051

Facility Identification

The certificate will identify the facility as:

A waste solvent collection system, piping, stainless steel sumps, tanks, pumps, leak detection devices, and containment coatings.

The facility is located at:

3585 SW 198th Ave.
Aloha, OR 97006

Technical Information

The facility is used for segregating and collecting hazardous and non-hazardous waste. The facility-includes a waste solvent collection system, piping, containment and related controls. Segregated collection of hazardous and non-hazardous waste material reduces the volume of hazardous waste generated. Secondary containment coatings prevent spills and leaks from impacting the environment.

Eligibility

ORS 468.155 (1)(a)	The **sole purpose** of this **new installation** is to prevent, control or reduce a substantial quantity of hazardous waste required by DEQ and the EPA.
ORS 468.155 (1)(b)(E)	The treatment, substantial reduction or elimination of or redesign to treat, substantially reduce or eliminate hazardous waste as defined in ORS 466.005.
ORS 468.155 (1)(b)(D)	The use of a material recovery process which obtains useful material from material that would otherwise be hazardous waste as defined in ORS 466.005, or used oil as defined in ORS 459A.555.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**12/17/1996**
Application Substantially Complete	**10/08/1997**
Construction Started	**12/01/1993**
Construction Completed	**12/01/1993**
Facility Placed into Operation	**07/01/1995**

Facility Cost

Facility Cost	**$547,351**
Ineligible Costs - Indirect Allocations	(285,260)
Eligible Facility Cost	**$262,091**

Kessler & Company, P.C. provided the certified public accountant's statement. Symonds, Evans and Larson reviewed facility cost information for the Department.

Intel identified $160,241 and the technical reviewer identified $125,019 included in the factored indirect costs and the installation indirect costs of the entire D1E project that are not properly allocated to this pollution control facility.

Symonds, Evans & Larson, P.C. recalculated the amount of eligible indirect costs ($43,994) included in the adjusted Facitiy Cost by multiplying the allowable direct costs of the facility ($218,097) by the ratio of the related indirect costs of the entire D1E project ($19,415,296) to the total direct costs of the entire D1E project ($96,249,258).

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 10 years. No gross annual revenues associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Permits

DEQ permits issued to facility: Air Permit #34-2681; NPDES Permit #100917

Reviewers: Gary J Calaba
Symonds, Evans & Larson

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation:	**APPROVE**
Applicant	**Schult Homes Corp.** **Marlett Homes, Inc.**
Application No.	**4745**
Facility Cost	**$20,938**
Percentage Allocable	**100%**
Useful Life	**10 years**

Pollution Control Facility Tax Credit: Water
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a construction business taking tax relief under taxpayer identification number 93-1139170. The applicant is the owner of the facility. The applicant's address is:

P.O. Box 910
Hermiston, OR 97838

Facility Identification

The certificate will identify the facility as:

Diagenex Water Filtration System – FiltraPak LHS-500

The facility is located at:

400 W. Elm St.
Hermiston, OR 97838

Technical Information

The claimed facility is a Diagenex water filtration system consisting of a filter press, transfer pump, tank and associated electrical and plumbing system. Wastewater from the taping, ceiling texturing and painting area is pumped to the Filter Pak filtration system. The filtrate is then discharged to the City of Hermiston sanitary sewer. The filter cake is disposed of to a landfill.

Eligibility

ORS 468.155 (1)(a) The **principal purpose** of this **new installation** to comply with a requirement imposed by the Department. The Department required to control the unpermitted discharge of wastewater to the waters of the state from the latex and dry wall operations of Marlett Homes, Inc.

ORS 468.155 (1)(b)(A) The control is accomplished with the use of treatment works for industrial waste as defined in ORS 468B.005.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**03/24/97**
Application Substantially Complete	**11/02/1998**
Construction Started	**07/20/95**
Construction Completed	**09/01/95**
Facility Placed into Operation	**09/01/95**

Facility Cost

Facility Cost		**$20,938**
Salvage Value	$	-
Government Grants	$	-
Other Tax Credits	$	-
Ineligible Costs	$	-
Eligible Facility Cost		**$20,938**

A cost summary substantiated the cost of the facility. The facility cost did not exceed $50,000; therefore an independent accounting review was not required.

Facility Cost Allocable to Pollution Control

According to ORS.190 (3), the only factor used to determine the percentage of the facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. The percentage of time the facility is used for pollution control and therefore the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with the requirement imposed by the Department.

Reviewers: R.C. Dulay
Maggie Vandehey

Tax Credit Review Report

EQC 12/11/98

Director's Recommendation:	**APPROVE**
Applicant	**The Halton Company**
Application No.	**4749**
Facility Cost	**$238,230**
Percentage Allocable	**100%**
Useful Life	**10 years**

Pollution Control Facility Tax Credit: Water
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C Corporation operating as a construction equipment rental and sales business. The applicant is taking tax relief under taxpayer identification number 93-0454453 and is the owner of the facility. The applicant's address is:

PO Box 3377
Portland, OR 97208

Facility Identification

The certificate will identify the facility as:

High Presure Hot Water Cleaning Equipment

The facility is located at:

4421 NE Columbia Blvd.
Portland, OR 97208

Technical Information

The facility consists of two cleaning areas; a water collection system; water treatment system; a mud collection and drying area; and a structure to house the facility and keep rain water out. The water from the cleaning operation is directed by floor slope and the trough drain to the water collection pit located on the East side of the large cleaning area. The water collection pit has a sloped floor to allow cleaning of sediments from the pit. At the back of the pit is a steel baffle to slow down the flow of the water and allow settlement of solids. An overflow weir allows the water to flow into a sump. From the sump the water is pumped out of the pit and into the water treatment system. Heavier solids are separated and disposed, while the water feeds from the cone tank into a 500-gallon holding tank. Water from the holding tank is used to supply the high-pressure water pump.

Eligibility

ORS 468.155 (1)(a) The **principal purpose** of this **new installation** is to comply with the requirement to reduce a substantial quantity of water pollution. DEQ required this installation according to Stipulation and Final Order No. WQIW-NWR-94-102 specifically requiring that "Respondent shall select an upgraded wastewater treatment system that will allow Respondent to comply with the (NPDES) Permit limitations.

ORS 468.155 (1)(b)(A) The disposal or elimination of or redesign to eliminate the use of treatment works for industrial waste as defined in ORS 468B.005.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**04/10/1997**
Application Substantially Complete	**9/17/1998**
Construction Started	**03/28/1995**
Construction Completed	**03/28/1995**
Facility Placed into Operation	**07/14/1995**

Facility Cost

Facility Cost	**$238,230**
Eligible Facility Cost	**$238,230**

Invoices substantiating the cost of the facility accompanied the application. Symonds, Evans & Larson, P.C. provided the certified public accountant's statement on behalf of the applicant.

Eligibility Cost Allocable to Pollution Control

According to ORS.190 (1), the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 15 years. No gross annual revenues associated with this facility.
ORS 468.190(1)(c) Alternative Methods	Six alternatives were investigated. The RGF proposal was selected as the most suitable for Halton's purposes. Cost and size of all the alternatives was essentially the same.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

DEQ permits issued to facility: NPDES Permit No. 100798 - issued July 2, 1991.

Reviewers: Elliot J. Zais

Tax Credit Review Report

EQC 12/11/98

Director's Recommendation: **APPROVE**

Applicant **Portland General Electric Company**
Application No. **4751**
Facility Cost **$759,299**
Percentage Allocable **100%**
Useful Life **10 years**

Pollution Control Facility Tax Credit: Water
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C Corporation operating as a supplier of electrical energy taking tax relief under taxpayer identification number 93-0256820. The Applicant is the owner of the facility. The applicant's address is:

121 SW Salmon St
1WTC-04-02
Portland, OR 97204

Facility Identification

The certificate will identify the facility as:

Six oil/mist eliminators

The facility is located at:

80998 Kallunki Road
Clatskanie, OR

Technical Information

The facility consists of six Oil Mist Eliminators (OME) which are used to capture the oil mist from the generator bearings of each gas turbine. The system operates under a vacuum. A 15 hp fan pulls the oil/air stream through 8-inch piping and then through a set of filters. The filter media captures the oil droplets and the air passes through and out an exhaust pipe. The oil drains back to the main lube reservoir.

Eligibility

ORS 468.155 (1)(a) The **principal purpose** of this **new device** is to prevent, control or reduce a substantial quantity of water pollution.

OAR-16-025 (2)(g) Installation or construction of facilities which will be used to **prevent** spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**04/11/1997**
Application Substantially Complete	**10/15/98**
Construction Started	**06/15/1993**
Construction Completed	**06/15/1993**
Facility Placed into Operation	**08/14/1995**

Facility Cost

Facility Cost	**$**	**759,299**
Salvage Value	$	- 0
Government Grants	$	- 0
Other Tax Credits	$	- 0
Ineligible Costs	$	- 0
Eligible Facility Cost	**$**	**759,299**

Invoices or canceled checks were not provided which could substantiate the cost of the facility, however a job cost summary was provided which itemized the above costs. **Arthur Anderson, LLP** provided the certified public accountant's statement on behalf of the applicant. Because the facility cost exceeds $500,000 **Symonds, Evans & Larson, LLC** performed an accounting review on behalf of the Department.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 20 years. No gross annual revenues associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternatives were investigated, however different vendors were compared.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The applicant states that the facility is in compliance with Department rules and statutes and with EQC orders. DEQ Air Permit 05-2520 has been issued to the PGE Beaver Generating Plant.

Reviewers: Lois L. Payne, P.E., SJO Consulting Engineers, Inc.
Dennis Cartier, Associate, SJO Consulting Engineers, Inc.
Symonds, Evans & Larson, LLC
Maggie Vandehey, DEQ

Tax Credit Review Report

EQC 12/11/98

Director's Recommendation:	**APPROVE**
Applicant	**Willamette Industries, Inc.**
Application No.	**4792**
Facility Cost	**$61,631**
Percentage Allocable	**100%**
Useful Life	**7 years**

Pollution Control Facility: Air
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a corporation operating as a laminated veneer lumber plant taking tax relief under taxpayer identification number 93-0312940. The applicant is the owner of the facility. The applicant's address is:

1300 SW Fifth Avenue, Suite 3800
Portland, Oregon 97201

Facility Identification

The certificate will identify the facility as:

Western Pneumatics baghouse.

The facility is located at:

Winston Engineered Wood Products Division
375 Dillard Garden Road
Winston, Oregon 97496

Technical Information

One new Western Pneumatic model #542 baghouse was installed for wood particulate control. The baghouse will handle up to 49,000 cfm air capacity. The installation includes fans, motors, ducting, structural supports and foundations.

Eligibility

ORS 468.155 (1)(a)	The **sole purpose** of the **new baghouse** is to control air pollution. The emission reduction is accomplished by the removal of air contaminants from the air stream before discharge to the atmosphere as defined in ORS 468A.005.
ORS 468.155 (1)(b)(B)	The use of air cleaning devices as defined in ORS 468A.005

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**7/8/97**
Application Substantially Complete	**6/11/98**
Construction Started	**12/30/96**
Construction Completed	**2/28/97**
Facility Placed into Operation	**2/28/97**

Facility Cost

Claimed Facility Cost			**$ 76,138**
Salvage Value			
Government Grants			
Other Tax Credits			
Insignificant Contribution	fire		(9,892)
	protection catwalk		(4,615)
Eligible Facility Cost			**$ 61,631**

Insignificant Contribution listed above includes $9,892 for fire protection, and $4,615 for catwalk equipment, installation and painting. Invoices substantiated the cost of the facility. KPMG Peat Marwick LLP provided the certified public accountant's statement.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost exceeds $50,000 and therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 7 years. No gross annual revenues associated with this facility.
ORS 468.190(1)(c) Alternative Methods	Alternatives were not considered.
ORS 468.190(1)(d) Savings or Increase in Costs	The claimed facility was said to have an average annual operating cost of $4,486 per year as a five-year average.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.
DEQ permits issued to facility: ACDP No. 10-0156

Reviewers: Dave Kauth

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation:	**APPROVE**
Applicant	**Valmont Industries**
Application No.	**4805**
Facility Cost	**$54,300**
Percentage Allocable	**100%**
Useful Life	**10 years**

Pollution Control Facility Tax Credit: Water
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-160-050

Applicant Identification

The applicant is a C Corporation operating as a galvanizing plant taking tax relief under taxpayer identification number 93-0781997. The Applicant is the owner of the facility. (Pacific States Galvanizing, Inc. was the original applicant. However, they sold the facility to Valmont Industries on January 1, 1998.) The applicant's address is:

9700 SW Herman Road
Tualatin, OR 97062

Facility Identification

The certificate will identify the facility as:

Collection basin, bio-swale and piping system for the treatment of contaminated storm water.

The facility is located at:

9700 SW Herman Road
Tualatin, OR 97062

Technical Information

The system consists of collection basins, piping to transport the runoff and a bio-swale (filtration pond). Sloping asphalt area aids in the transport of storm water from other surfaces to collection basins. The bio-swale removes a significant quantity of the contaminants carried by the stormwater prior to its release into the environment.

Eligibility

ORS 468.155 (1)(a)	The **principal purpose** of this **new installation** is to comply with a requirement by the DEQ, to control a substantial quantity of water pollution.
ORS 468.155 (1)(b)(A)	The control is accomplished with the use of treatment works for industrial waste as defined in ORS 468B.005.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**07/21/1997**
Application Substantially Complete	**11/02/1998**
Construction Started	**07/01/1995**
Construction Completed	**01/01/1996**
Facility Placed into Operation	**01/01/1996**

Facility Cost

Facility Cost	**$54,300**
Salvage Value	$ -
Government Grants	$ -
Other Tax Credits	$ -
Ineligible Costs	$ -
Eligible Facility Cost	**$54,300**

A summary cost substantiated the cost of the facility. Van Beek and Company provided the certified public accountant's statement.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 20 years. There is no gross annual revenue associated with this facility.
ORS 468.190(1)(c) Alternative Methods	Other alternatives investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with its Stormwater NPDES General Permit Number1200Z issued by the Department.

Reviewers: RCDulay

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant	**Willamette Industries, Inc.**
Application No.	**4806**
Facility Cost	**$156,122**
Percentage Allocable	**100%**
Useful Life	**7 years**

Pollution Control Facility Tax Credit: Water
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-050

Applicant Identification

The applicant is a C corporation operating as a paper mill. The applicant is the owner of the facility and will be taking tax relief under taxpayer identification number 93-0312940. The applicant's address is:

1300 SW Fifth Ave., Suite 3800
Portland, OR 97201

Facility Identification

The certificate will identify the facility as:

Self-contained closed loop system, where wash water is filtered and recycled.

The facility is located at:

1551 SW Lyle Street
Dallas, OR 97338

Technical Information

Facility consists of three areas: 1) pre-wash area for removing heavy accumulation of mud and dirt. 2) main wash area. Both areas are self-contained with a closed loop system to separate solids through a settling tank, and separate oils through a skimming and filtration system. 3) self-contained area for proper disposition of oil and other pollutants.

ORS 468.155 (1)(a)	The **principal purpose** of this **new installation** is to control wastewater and chemical pollutants Storm Water Discharge Permit Number 1200-W.
OAR-16-025 (2)(g)	Installation or construction of facilities which will be used to deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**07/21/1997**
EQC Meeting Where Postponed	**4/3/1998**
Additional Information Requested	**4/9/1998**
Additional Information Provided	**9/23/1998**
Application Substantially Complete	**9/23/1998**
Construction Started	**12/01/1994**
Construction Completed	**12/01/1994**
Facility Placed into Operation	**07/31/1995**

Facility Cost

Facility Cost		**$246,159**
Other Tax Credits		
Ineligible Costs[1]		
Restrooms	- $	7,800
Mechanical Shop	- $	53,669
Storage Area	-$	23,853
Fire Protection System	- $	4,715
Eligible Facility Cost		**$156,122**

A cost summary accompanied the application. Peat Marwick, LLP provided the independent auditor's report.

Several costs were subtracted from the claimed cost of the facility because they made an insignificant contribution to pollution control [ORS 468.155(2)(d)] or the primary and most important purpose is not pollution control. [ORS 360-016-0060 (2)(a)][2] The mechanical shop and the storage area costs were determined using the square footage cost ($33.13) of the concrete slab and cover.

The applicant claims that the entire facility should be included since their stormwater permit requires them to utilize best management practices in implementing a stormwater plan that includes: 1) containment of potential spills of hazardous chemicals; 2) control of debris and sediment; and 3) diversion of stormwater away from potential stormwater contamination. They claim that "Utilizing a machanic shop with a concrete slab for containment and a cover to shield the maintenance activities from weather provide both

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[2] (2) Purpose of Facility. The facility shall meet the principal purpose requirement to be eligible for a pollution control facility tax credit certification...
(a) Principal Purpose Requirement. The principal purpose of the facility is the most important or primary purpose of the facility. Each facility shall have only one principal purpose...

containment of potential spills and diversion of stormwater away from potential stromwater contamination of nearby Ash Creek.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 7 years. No gross annual revenues associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

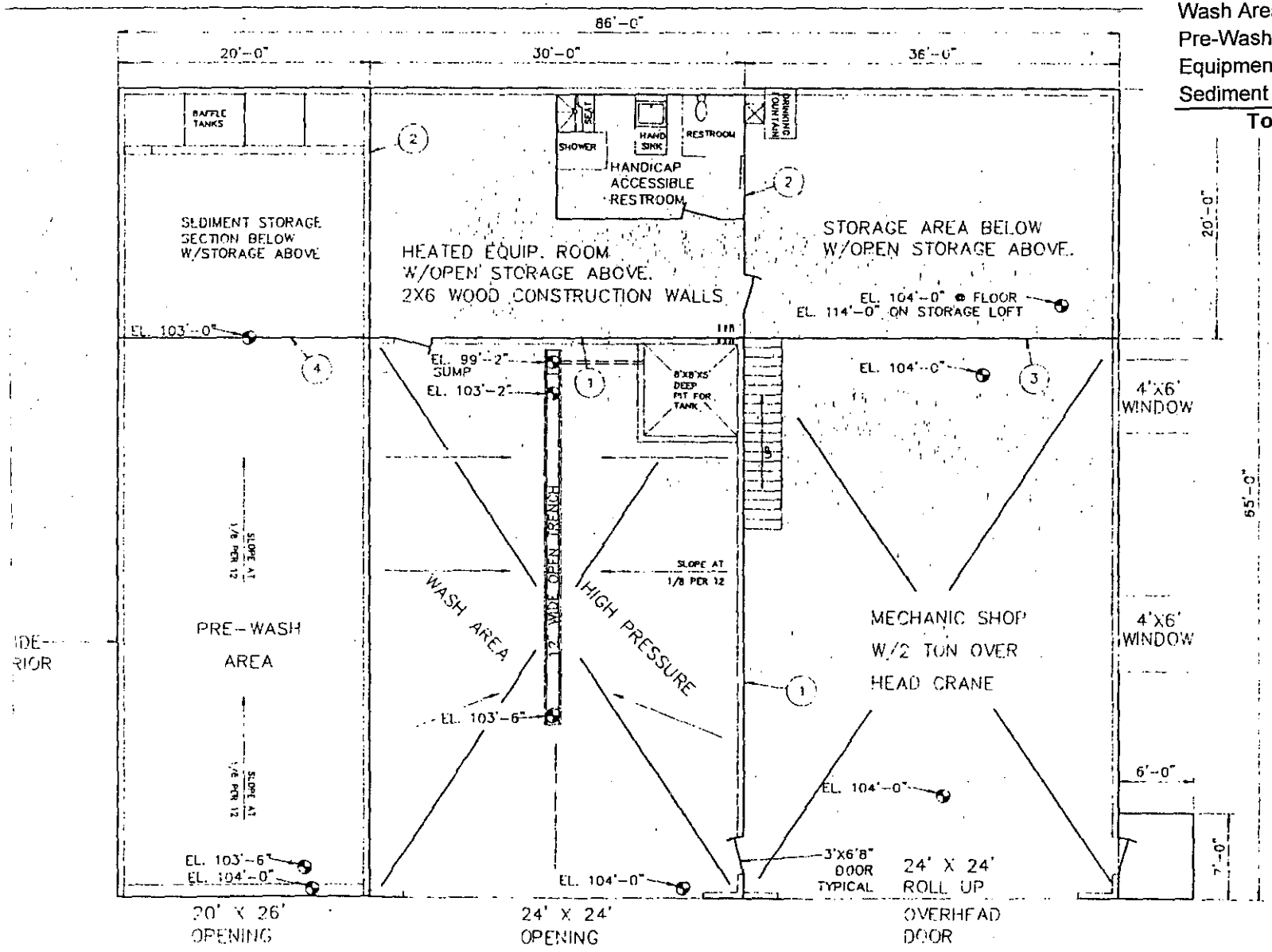
Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. Permits issued by DEQ: ACDP No. 27-0177; Storm Water Discharge Permit Number 1200-W.

Reviewers: Elliot J. Zais
Maggie Vandehey

4806

	Square Footage	Concrete Wash Slab and Cover
Mechanical Shop	1620	$ 53,669
Starage Area	720	$ 23,853
Restroom	150	$ 4,969
Wash Area	1350	$ 44,724
Pre-Wash Area	900	$ 29,816
Equipment Room	450	$ 14,908
Sediment Storage	400	$ 13,252
Total Claimed	5590	$ 185,190



PLAN VIEW

Tax Credit Review Report

Revised 9/30/97

Director's Recommendation: **APPROVE**

Applicant	**Homebuilders Northwest, Inc.**
Application No.	**4823**
Facility Cost	**$13,305**
Percentage Allocable	**100%**
Useful Life	**10 years**

Pollution Control Facility Tax Credit: Water
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a construction business taking tax relief under taxpayer identification number 93-1139170. The applicant is the owner of the facility. The applicant's address is:

1650 Salem Industrial Drive
Salem, OR 97303

Facility Identification

The certificate will identify the facility as:

Diagenex Model LMS-200 Filta Pak Solids Removal System.

The facility is located at:

1650 Salem Industrial Drive
Salem, OR 97303

Technical Information

The claimed facility consists of Filtra Pak solids removal system with associated plumbing system. Wastewater from the texture finishing of walls and ceiling of homes is pumped to the Filtra Pak solids removal equipment. The filtrate is reused for joint compound mixing and for paint cleanup. The filter cake is disposed of to a landfill.

Eligibility

ORS 468.155 (1)(a)	The **sole purpose** of this **new equipment** is to control a substantial quantity of water pollution.
ORS 468.155 (1)(b)(A)	The control is accomplished with the use of treatment works for industrial waste as defined in ORS 468B.005.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**08/19/1997**
Application Substantially Complete	**11/03/1998**
Construction Started	**07/10/1995**
Construction Completed	**09/26/1995**
Facility Placed into Operation	**10/01/1995**

Facility Cost

Facility Cost		**$13,305**
Salvage Value	$	-
Government Grants	$	-
Other Tax Credits	$	-
Ineligible Costs	$	-
Eligible Facility Cost		**$13,305**

Invoices or canceled checks substantiated the cost of the facility. The cost of this facility does not exceed $20,000 and therefore, an independent certified public accountant's statement is not required.

Facility Cost Allocable to Pollution Control

According to ORS.190 (3), the only factor used to determine the percentage of the facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. The percentage of time the facility is used for pollution control and therefore the percentage allocable to pollution control is100%.

Compliance

The facility is in compliance with Department rules and statutes.

Reviewers: RCDulay

Tax Credit Review Report

EQC 12/11/98

Director's Recommendation:	**APPROVE**
Applicant	**Resco Plastics, Inc.**
Application No.	**4836**
Facility Cost	**$9,500**
Percentage Allocable	**100%**
Useful Life	**10 years**

Reclaimed Plastic Products
Final Certification
ORS 468.451 -- 468.491
OAR 340-017-0010 -- 340-017-0055

Applicant Identification

The applicant is a C corporation operating as recycler, repressor & manufacturer of post consumer & industrial plastics. As owner and operator of the facility, the applicant will be taking tax relief under taxpayer identification number 93-118-5846. The applicant's address is:

1170 Newport Ave.
Coos Bay, Oregon 97420

Facility Identification

The certificate will identify the facility as:

50 Hp Pulverizer to grind start up lumps.

The facility is located at:

1170 Newport
Coos Bay, Oregon 97420

Technical Information

This machine is used to break up large chunks of scrap plastic so that they can be granulated and then remolded into reclaimed plastic pellets.

Eligibility

ORS 468.461(1) Any person may apply to the EQC for certification of an investment made to allow the person to collect, transport or process reclaimed plastic or to manufacture a reclaimed plastic product.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.461(6).

Preliminary application received	**09/23/1997**
Preliminary approval Granted	**09/23/1997**
Date of investment	**09/27/1997**
Final application received	**09/15/1998**
Application substantially complete	**10/15/1998**

Facility Cost

Facility Cost		**$9,500**
Salvage Value	$	-
Government Grants	$	-
Other Tax Credits	$	-
Ineligible Costs	$	-
Eligible Facility Cost		**$9,500**

Pursuant to OAR 340-017-003 (1)(a), invoices substantiated the cost of the facility. The facility cost does not exceed $50,000; therefore, an independent accounting review was not required

Facility Cost Allocable to Pollution Control

Pursuant to ORS 468.486, the following factors were used to determine the percentage of the investment allocable to the collection, transportation or processing of reclaimed plastic or the manufacture of reclaimed plastic product.

Factor	Applied to This Facility
OAR 340-017-0030 (2)(a) Extent Used to convert reclaimed plastic into a salable or usable commodity.	The equipment is used 100% of the time to for processing reclaimed plastic into a salable or useable commodity.
OAR 340-017-0030 (2)(b) The alternative methods, equipment and costs for achieving the same objective;	No alternative methods were considered.
OAR 340-017-0030 (2)(c) Other relevant factors used to establish portion of the cost allocable to collection, transportation or processing of reclaimed plastic or the manufacture of reclaimed plastic products.	No other factors were considered relevant.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. There are no DEQ permits issued to this facility:

Reviewers: William R Bree

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant	**Portland General Electric Co.**
Application No.	**4840**
Facility Cost	**$71,806**
Percentage Allocable	**100%**
Useful Life	**10 years**

Pollution Control Facility Tax Credit: Water
Final Certification
ORS 468.150 -- 468.190
OAR 340-16-0005 -- 340-16-050

Applicant Identification

The applicant is a C Corporation operating as a provider of electical services. taking tax relief under taxpayer identification number 93-0256820. The Applicant is the owned of the facility. The applicant's address is:

121 SW Salmon Street
Portland, OR 97204

Facility Identification

The certificate will identify the facility as:

Geomembrane liner, 15,000 gallon oil/water separator and associated piping system.

The facility is located at:

16566 SE 130th Avenue
Clackamas, OR 97015

Technical Information

The substation has two transformers with an oil spill containment system. The containment system consists of geomembrane liners in each transformer unit, 15,000-gallon oil/water separator and associated piping system. The drainage including oil spills is collected and discharges to the oil/water separator. The separator allows the passage of water and spilled oil is contained. Cleanup crew is dispatched to the site. The drainage goes into a storm drain and eventually to the Clackamas River.

Eligibility

ORS 468.155 (1)(a) The principal purpose of the installation is to control a substantial quantity of water pollution. The requirement is imposed by the federal Environmental Protection Agency per 40 CFR Part 112 (Oil Pollution Prevention).

ORS 468.155 (1)(b)(A) The disposal or elimination of or redesign to eliminate the use of treatment works for industrial waste as defined in ORS 468B.005.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**09/25/1997**
Application Substantially Complete	**11/02/1998**
Construction Started	**06/15/1995**
Construction Completed	**09/29/1995**
Facility Placed into Operation	**09/29/1995**

Facility Cost

Facility Cost	**$71,806**
Ineligible Costs	$ -
Eligible Facility Cost	**$71,806**

Invoices or canceled checks substantiated the cost of the facility. Coopers & Lybrand, LLP provided the certified public accountant's statement on behalf of the applicant.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 47 years. No gross annual revenues associated with this facility.
ORS 468.190(1)(c) Alternative Methods	Oil pits and sand filter system were considered but found to be more expensive and costly to maintain.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with the requirement imposed by the federal Environmental Protection Agency. No DEQ permits are issued to the facility.

Reviewers: R. C. Dulay
Maggie Vandehey

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant **Portland General Electric Co.**
Application No. **4841**
Facility Cost **$123,110**
Percentage Allocable **100%**
Useful Life **10 years**

Pollution Control Facility Tax Credit: Water
Final Certification
ORS 468.150 -- 468.190
OAR 340-16-0005 -- 340-16-050

Applicant Identification

The applicant is a C Corporation operating as a provider of electical services. taking tax relief under taxpayer identification number 93-0256820. The Applicant is the owned of the facility. The applicant's address is:

121 SW Salmon Street
Portland, OR 97204

Facility Identification

The certificate will identify the facility as:

Geomembrane liner, oil/water separator, associated piping system.

The facility is located at:

23325 NW Evergreen Road
Hillsboro, OR 97123

Technical Information

The oil spill containment system consists of geomembrane liner, oil/water separator and associated piping system. The drainage from the transformers' lined containment system discharges to an oil/water separator. This allows the passage of water while stopping the flow of oil in the event of a spill. All spilled oil must go through the drainage system, allowing adequate time for a cleanup crew to be dispatched to the site. The drainage goes to a storm drain that empties into Dawson Creek.

Eligibility

ORS 468.155 (1)(a) The principal purpose of the installation is to comply with a requirement imposed by the federal Environmental Protection Agency under 40 CFR Part 112 (Oil Pollution Prevention).

ORS 468.155 The control is accomplished with the use of treatment works for industrial waste as

(1)(b)(A) defined in ORS 468B.005.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**09/25/1997**
Application Substantially Complete	
Construction Started	**09/01/1995**
Construction Completed	**10/28/1995**
Facility Placed into Operation	**10/28/1995**

Facility Cost

Facility Cost	**$123,110**
Salvage Value	$ -
Government Grants	$ -
Other Tax Credits	$ -
Ineligible Costs	$ -
Eligible Facility Cost	**$123,110**

Invoices or canceled checks substantiated the cost of the facility. Coopers & Lybrand provided the certified public accountant's statement.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	There is no return on investment. No gross annual revenues associated with this facility.
ORS 468.190(1)(c) Alternative Methods	Oil pits and sand filters were considered but were determined to be expensive and costly to maintain.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with the requirement imposed by the federal Environmental Protection Agency.

Reviewers: RCDulay

Tax Credit Review Report

EQC 12/11/98

Director's Recommendation:	**APPROVE**
Applicant	**Resco Plastics, Inc.**
Application No.	**4862**
Facility Cost	**$13,385**
Percentage Allocable	**100%**
Useful Life	**10 years**

Reclaimed Plastic Products
Final Certification
ORS 468.451 -- 468.491
OAR 340-017-0010 -- 340-017-0055

Applicant Identification

The applicant is a C corporation operating as recycler, repressor & manufacturer of post consumer & industrial plastics taking tax relief under taxpayer identification number 93-118-5846. The applicant is the owner of the facility. The applicant's address is:

1170 Newport Avenue
Coos Bay, OR 97420

Facility Identification

The certificate will identify the facility as:

150 hp SCR Drive, 150 hp Motor & Transformer, CTC 2 hp Drive & 5 hp 1750, 2050 RPTI DC Motor with all materials for Extruder.

The facility is located at:

1170 Newport Avenue
Coos Bay, OR 97420

Technical Information

These pieces of equipment are parts of a plastic extruder that is used to process waste plastic into reclaimed plastic pellets.

Eligibility

ORS 468.461(1) Any person may apply to the EQC for certification of an investment made to allow the person to collect, transport or process reclaimed plastic or to manufacture a reclaimed plastic product.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.461(6).

Preliminary application received	**09/23/1997**
Preliminary approval granted	**09/23/1997**
Date of investment	**09/27/1997**
Application received	**09/15/1998**
Application substantially complete	**10/15/1998**

Facility Cost

Facility Cost	**$13,385**
Eligible Facility Cost	**$13,385**

Pursuant to OAR 340-017-003 (1)(a), invoices substantiated the cost of the facility. The facility cost does not exceed $50,000; therefore, an independent accounting review is not required.

Facility Cost Allocable to Pollution Control

Pursuant to ORS 468.486, the following factors were used to determine the percentage of the investment allocable to the collection, transportation or processing of reclaimed plastic or the manufacture of reclaimed plastic product.

Factor	Applied to This Facility
OAR 340-017-0030 (2)(a) Extent Used to convert reclaimed plastic into a salable or usable commodity.	The equipment is used 100% of the time to for processing reclaimed plastic into a salable or useable commodity.
OAR 340-017-0030 (2)(b) The alternative methods, equipment and costs for achieving the same objective.	No alternative methods were considered.
OAR 340-017-0030 (2)(c) Other relevant factors used to establish portion of the cost allocable to collection, transportation or processing of reclaimed plastic or the manufacture of reclaimed plastic products.	No other factors were considered relevant.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. There are no DEQ permits issued to this facility:

Reviewers: William R Bree

Tax Credit Review Report

EQC 12/11/98

Director's Recommendation: **APPROVE**

Applicant **Integrated Device Technology (IDT)**
Application No. **4894**
Facility Cost **$612,835**
Percentage Allocable **100%**
Useful Life **10 years**

Pollution Control Facility Tax Credit: Air/Hazard Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a designer, manufacturer and marketer of intergated circuits. The applicant is the owner of the facility and is taking tax relief under taxpayer identification number 94-2669985. The applicant's address is:

2975 Stender Way
Santa Clara, CA 95054

Facility Identification

The certificate will identify the facility as:

A Volatile Organic Compound (VOC) abatement unit manufactured by Munters Corporation, Model #IZS-2400-TH.

The facility is located at:

3131 NE Brookwood Pkwy.
Hillsboro, OR 97124

Technical Information

The Munters Zeol Rotor uses a hydrophobic zeolite absorbent to remove VOC's from manufacturing process air streams. Based on manufacturer specifications, the effectiveness on the Munters unit is at least 92% for all VOC producing chemicals used during the manufacturing process at this site. The facility was installed to meet the requirements in Air Contaminant Discharge Permit #34-2813, which requires the installation of VOC abatement equipment with an efficiency rating of at least 90% when the manufacturing process produces VOC emissions in excess of 3,400 pounds per month.

Eligibility

ORS 468.155 (1)(a)	The **principle purpose** of this **new device,** is to prevent, control, and reduce a substantial quantity of air pollution and hazardous waste as required by DEQ's Air Contaminant Discharge Permit #34-2813.
ORS 468.155 (1)(b)(B)	The disposal or elimination of or redesign to eliminate air contamination sources and the use of air cleaning devices as defined in ORS 468A.005
ORS 468.155 (1)(b)(E)	The treatment, substantial reduction or elimination of or redesign to treat, substantially reduce or eliminate hazardous waste as defined in ORS 466.005.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**12/9/97**
Application Substantially Complete	**9/04/1998**
Construction Started	**4/1/96**
Construction Completed	**12/1/96**
Facility Placed into Operation	**12/1/96**

Facility Cost

Facility Cost	**$612,835**
Eligible Facility Cost	**$612,835**

Kessler and Company, PC, provided the certified public accountant's statement verifying the costs claimed in the application. Maggie Vandehey performed the accounting review on behalf of the Department. No IDT internal costs were claimed. No ineligible costs were claimed. Invoice payments represent 100 percent of the cost of the facility.

Facility Cost Allocable to Pollution Control

According to ORS 468.190 (1), the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 10 years. No gross annual revenues associated with this facility.
ORS 468.190(1)(c) Alternative Methods	Alternatives were investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

Bases on file reviews, the applicant's claims, and site visits the facility is in compliance with Department rules and statutes and with EQC orders.

DEQ permits issued to facility: Air Contaminant Discharge Permit # 34-2813

Reviewers: Cascade Earth Sciences, Ltd.
Dave Kauth
Maggie Vandehey

Tax Credit Review Report

EQC 12/11/98

Pollution Control Facility Tax Credit: Air
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Director's Recommendation: **APPROVE**

Applicant	**Willamette Industries, Inc.**
Application No.	**4903**
Facility Cost	**$45,788**
Percentage Allocable	**100%**
Useful Life	**7 years**

Applicant Identification

The applicant is a C corporation operating as a paper mill taking tax relief under taxpayer identification number 93-0312940. The applicant is the owner of the facility. The applicant's address is:

1300 SW Fifth Avenue, Suite 3800
Portland, OR 97201

Facility Identification

The certificate will identify the facility as:

A MAC Equipment Inc. bagfilter, model # 96-MCF-153, serial # 95-FMCF-09-008.

The facility is located at:

1551 SW Lyle Street
Dallas, OR 97338

Technical Information

A Mac Equipment Inc. bagfilter designed for 15,028 ACFM was installed to control particulate emissions from a new trim saw and an existing horizontal saw. The new bagfilter has 1,484 square feet of cloth area for a 10:1 air to cloth ratio. The emissions from the bagfilter are negligible (0.00 lbs/hour).

Eligibility

ORS 468.155 (1)(a)	The **principal purpose** of this **new equipment** is to reduce or eliminate a substantial quantity of pollution as required by Air Contaminant Discharge Permit #27-0177.
ORS 468.155 (1)(b)(B)	The disposal or elimination of or redesign to eliminate air contamination sources and the use of air cleaning devices as defined in ORS 468A.005

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6). The Reviewer requested additional information to substantiate the allocation of the installation costs for the project.

Application Received	**12/30/97**
Application Substantially Complete	**9/01/1998**
Additional Information Requested	**3/4/1998**
Construction Started	**11/13/95**
Construction Completed	**1/31/96**
Facility Placed into Operation	**1/31/96**

Facility Cost

Facility Cost		
Air System Installation-Days Metal Fabrication		$90,000
Electrical Equipment/Installation - various		$6,952
	Claimed Facility Cost	**$96,952**
Ineligible Costs		
	Pipe and Conveyor System	-$ 47,758
	49% of Electrical	-$ 3,406
Eligible Facility Cost		**$45,788**

A "List of Expenditures" was provided with the application. It contained the two line items listed above. Mac Industries, Inc.', the manufacturer, provided a cost estimate for the bagfilter and the associate equipment. The supplier and installer, Days Metal Fabrication, did not wish to disclose specific charges or specific equipment. The costs associated with the conveyor system and the piping listed on Days Metal Fabrication invoice are considered material handling devices, not pollution control devices.

Willamette Industries was notified by mail on March 3, 1998 that they had 180 days to supply any documentation to substantiate the allocation of labor costs for the project. There was not a line item break down of expenses from Days Metal Fabrication and such no costs for installation could be substantiated.

A summary invoice for the total cost of the facility accompanied the application. KPMG- Peat Marwick LLP, provided the certified public accountant's statement verifying the costs claimed in the application.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 7 years. No gross annual revenues associated with this facility.
ORS 468.190(1)(c) Alternative Methods	Alternatives were investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

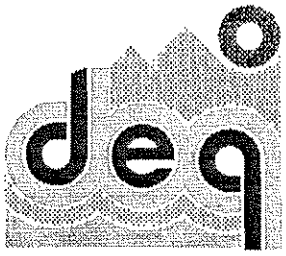
Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

Based on file review and the applicant's claims, the facility is in compliance with Department rules and statutes and with EQC orders.

DEQ permits issued to facility:
Air Contaminant Discharge Permit #27-0177

Reviewers: Cascade Earth Sciences, Ltd.
David Kauth



Director's Recommendation: **APPROVE**

Applicant	**Resco Plastics, Inc.**
Application No.	**4910**
Facility Cost	**$2,500**
Percentage Allocable	**100%**
Useful Life	**10 years**

Tax Credit Review Report

EQC 12/11/98

Reclaimed Plastic Products
Final Certification
ORS 468.451 -- 468.491
OAR 340-017-0010 -- 340-017-0055

Applicant Identification

The applicant is a C corporation operating as recycler, repressor & manufacturer of post consumer & industrial plastics. It is taking tax relief under taxpayer identification number 93-18-5846. The applicant is the owner of the facility. The applicant's address is:

1170 Newport Ave.
Coos Bay, OR 97420

Facility Identification

The certificate will identify the facility as:

4 Bucket Elevators, 1 Heater/Dryer, 1 Vacuum System.

The facility is located at:

1170 Newport Ave.
Coos Bay, Oregon

Technical Information

This used equipment is used to handle waste plastic as part of the process to clean and remelt the plastic into reclaimed plastic pellets.

Eligibility

ORS 468.461 (1) Any person may apply to the EQC for certification of an investment made to allow the person to collect, transport or process reclaimed plastic or to manufacture a reclaimed plastic product.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.461(6).

Preliminary application received	**12/11/1997**
Preliminary approval granted	**12/11/1997**
Date of investment	**12/15/1997**
Final application received	**09/15/1998**
Application substantially complete	**10/15/1998**

Facility Cost

Facility Cost		**$2,500**
Salvage Value	$	-
Government Grants	$	-
Other Tax Credits	$	-
Ineligible Costs	$	-
Eligible Facility Cost		**$2,500**

Pursuant to OAR 340-017-003 (1)(a), invoices substantiated the cost of the facility. The facility cost does not exceed $50,000; therefore, an independent accounting review was not required.

Facility Cost Allocable to Pollution Control

Pursuant to ORS 468.486, the following factors were used to determine the percentage of the investment allocable to the collection, transportation or processing of reclaimed plastic or the manufacture of reclaimed plastic product.

Factor	Applied to This Facility
OAR 340-017-0030 (2)(a) Extent Used to convert reclaimed plastic into a salable or usable commodity.	The equipment is used 100% of the time to for processing reclaimed plastic into a salable or useable commodity.
OAR 340-017-0030 (2)(b) The alternative methods, equipment and costs for achieving the same objective.	No alternative methods were considered.
OAR 340-017-0030 (2)(c) Other relevant factors used to establish portion of the cost allocable to collection, transportation or processing of reclaimed plastic or the manufacture of reclaimed plastic products.	No other factors were considered relevant.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. There are no DEQ permits issued to this facility:

Reviewers: William R Bree

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant	**WWDD**
Application No.	**4912**
Facility Cost	**$9,791**
Percentage Allocable	**100%**
Useful Life	**10 years**

Pollution Control Facility: Plastics
Final Certification
ORS 468.451 -- 468.491
OAR 340-017-0010 -- 340-017-0055

Applicant Identification

The applicant is a C corporation operating as a plastics recycle business that is taking tax relief under taxpayer identification number 93-0764756. The applicant is the owner of the facility. The applicant's address is:

WWDD
230 NW 10th
Portland, OR 97209

Facility Identification

The certificate will identify the facility as:

a discharge cyclone, evacuation, and dust removal system for processing plastic regrind

The facility is located at:

4427 NE 158th
Portland, OR 97230

Technical Information

This equipment is used by Denton Plastic to as part of a processing system that clean, regrinds, and re-pelletizes waste plastic into a reclaimed plastic pellet that can be used to manufacture new plastic products. The claimed equipment uses a sucking, rather than blowing, process to transport ground plastic between two reprocessing stages. This particular type of equipment allows or a cleaner and smoother flow of material. The equipment includes a discharge cyclone and a dust removal system for processing plastic regrind.

Eligibility

ORS 468.155 (1)(a) The **purpose** of this **new equipment** is to collect, transport, or process reclaimed plastic or to manufacture a reclaimed plastic product. Specifically, this part of a reclaimed plastic processing line.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.461 and .471.

Preliminary application received	
Preliminary application approved	**08/22/1998**
Application Received	**09/08/1998**
Application Substantially Complete	**10/08/1998**
Date of investment	**09/26/1998**

Facility Cost

Facility Cost		**$9,791**
Salvage Value	$	-
Government Grants	$	-
Other Tax Credits	$	-
Ineligible Costs	$	-
Eligible Facility Cost		**$9,791**

Invoices or canceled checks substantiated the cost of the facility. The facility cost does not exceed $50,000; therefore, an independent accounting review was not required.

Facility Cost Allocable to Pollution Control

This facility is used 1005 for the recycling a reclaimed plastic. There fore, in accordance with ORS 468.486, the portion of cost allocable to recycling is 100%

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. There are no DEQ permits issued to this facility.

Reviewers: William R Bree

Tax Credit Review Report

EQC 12/11/98

Director's Recommendation:	**APPROVE**
Applicant	**Resco Plastics, Inc.**
Application No.	**4914**
Facility Cost	**$5,179**
Percentage Allocable	**100%**
Useful Life	**10 years**

Reclaimed Plastic Products
Final Certification
ORS 468.451 -- 468.491
OAR 340-017-0010 -- 340-017-0055

Applicant Identification

The applicant is a C corporation operating as recycler, repressor & manufacturer of post consumer & industrial plastics and is taking tax relief under taxpayer identification number 93-118-5846. The applicant is the owner of the facility. The applicant's address is:

1170 Newport Ave.
Coos Bay, OR 97420

Facility Identification

The certificate will identify the facility as:

GALA spin dryer

The facility is located at:

1170 Newport Ave.
Coos Bay, Oregon

Technical Information

This equipment is used to spin dry granulated plastic that has been washed and is being prepared for re-melting and molding into reclaimed plastic pellets.

Eligibility

ORS 468.461 (1) Any person may apply to the EQC for certification of an investment made to allow the person to collect, transport or process reclaimed plastic or to manufacture a reclaimed plastic product.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.461(6).

Preliminary Application Received	**01/08/1998**
Preliminary approval granted	**01/08/1998**
Date of investment	**01/12/1998**
Final application received	**09/15/1998**
Application substantially complete	**10/15/1998**

Facility Cost

Facility Cost		**$5,179**
Salvage Value	$	-
Government Grants	$	-
Other Tax Credits	$	-
Ineligible Costs	$	-
Eligible Facility Cost		**$5,179**

Pursuant to OAR 340-017-003 (1)(a), invoices substantiated the cost of the facility. The facility cost does not exceed $50,000; therefore, an independent accounting review was not required.

Facility Cost Allocable to Pollution Control

Pursuant to ORS 468.486, the following factors were used to determine the percentage of the investment allocable to the collection, transportation or processing of reclaimed plastic or the manufacture of reclaimed plastic product.

Factor	Applied to This Facility
OAR 340-017-0030 (2)(a) Extent Used to convert reclaimed plastic into a salable or usable commodity.	The equipment is used 100% of the time to for processing reclaimed plastic into a salable or useable commodity.
OAR 340-017-0030 (2)(b) The alternative methods, equipment and costs for achieving the same objective;	No alternative methods were considered.
OAR 340-017-0030 (2)(c) Other relevant factors used to establish portion of the cost allocable to collection, transportation or processing of reclaimed plastic or the manufacture of reclaimed plastic products.	No other factors were considered relevant.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. There are no DEQ permits issued to this facility:

Reviewers: William R Bree

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant	**Balzer Painting, Inc.**
Application No.	**4926**
Facility Cost	**$131,173**
Percentage Allocable	**100%**
Useful Life	**10 years**

Pollution Control Facility: Air
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a painting company. The applicant is the owner of the facility and will be taking tax relief under taxpayer identification number 93-0659491. The applicant's address is:

19405 SW 125th Court
Tualutin, OR 97062

Facility Identification

The certificate will identify the facility as:

Two Bessemaire make-up air handlers and one Bleeker drying booth used to dry water base paint, lacquer, or stain on doors, windows or mouldings.

The facility is located at:

19405 SW 125th Court
Tualutin, OR 97062

Technical Information

The air pollution prevention system consists of two Bessemaire make-up air systems and one Bleeker drying enclosure. These systems are used to speed up the drying process when using water-base sealers or other water-base paint products. Using water-base coatings instead of solvent-base coatings reduces the potential of VOC's from being emitted into the atmosphere.

The two Bessemaire direct gas fired heat/ventilation make-up air systems, Model MUAJHV-13TLA-621, are vertical mount with an outside air intake from duct that is run to the roof. Each unit is rated at 13,000 cfm at 0.4 inches static pressure and 842,400 Btuh at high fire. The units have Model 1-PD900-100 blowers and have ducted connections to the spray booths. The drying unit has a gas-fired recirculating heat system, which provides a 60°F temperature rise from an indirect fired heater. It is sized to provide 336,000 Btuh. The 24-inch diameter tubeaxial recirculating fan provides 4400 cfm at 0.75 inches static pressure. The complete system includes controls, installation of electrical power, exhaust and supply ducting connections, flue piping, a 25Hp air compressor, air-pumps and dryer access doors.

Balzer installed this equipment in lieu of using solvent-base paint products, which release VOC's to the atmosphere. The goal in purchasing and installing the air-handling systems and dryer was to stay under the federal EPA Clean Air Act guidelines (10 tons/year emissions) and thereby avoid having to obtain an air permit. In their present operating condition, they do not exceed the 10 tons per year emissions limit at their site. If they had expanded their production and continued to use solvent-base coating, the estimated emissions would be 2-3 times as much (20-30 tons/year).

Solvent-base coatings dry much quicker than water-base coatings. Time comparisons between solvent-base and water-base are as follows:

	Solvent-Base	Water-base	
Primer/sealer:	10 minutes	3 hours	18 times longer
First paint coat:	10 minutes	12 hours	72 times longer
Second paint coat:	10 minutes	12 hours	72 times longer

In order to maintain production speed and get the same throughput, they needed to force cure the water-base coatings. By using the air-handling systems and dryer to heat and thereby force cure the water-base coatings, the drying times are reduced, but it still takes longer than it does for solvent-base coatings:

	Solvent-Base	Water-base	
Primer/sealer:	10 minutes	20 minutes	2 times longer
First paint coat:	10 minutes	30 minutes	3 times longer
Second paint coat:	10 minutes	30 minutes	3 times longer

Had the applicant chosen to use water-base coatings without the drying equipment, they would need 3-1/3 times more floor space to maintain their current production schedule.

The cost for water-base primer is $2.16/gallon more than lacquer primer, but the two costs for paint are about equal.

Eligibility

ORS 468.155 (1)(a)(B) The **principal purpose** of this **new equipment and installation** is to **prevent**, control or reduce a substantial quantity of air pollution.

ORS 468.155 (1)(b)(B) The disposal or elimination of or redesign to eliminate air contamination sources and the use of air cleaning devices as defined in ORS 468A.005.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**1/30/98**
Additional Information Requested	**3/3/98**
Additional Information Received	**8/28/98**
Application Substantially Complete	**9/3/98**
Construction Started	**2/1/97**
Construction Completed	**7/31/97**
Facility Placed into Operation	**7/31/97**

Facility Cost

Claimed Facility Cost	$	**218,777**
Salvage Value	$	-15,000
Government Grants	$	-0
Other Tax Credits	$	-0
Ineligible Costs		
Spray booth #1	$	-30,305
Spray booth #2		-34,612
Electrical portion for spray booths		-7,687
Eligible Facility Cost	$	**131,173**

Copies of invoices were provided, marked paid with the check number written on them, which substantiated the cost of the facility. **Jess A. Hamby, C.P.A.**, provided the certified public accountant's statement. The original application erroneously calculated the gross annual income and operating expenses for the entire business, not for the claimed facility. The claimed facility cost of $218,777 included all equipment purchased when Balzer Painting moved to the new location and expanded their production capability. The ineligible costs listed above are detailed in the table below.

Description	**Claimed Cost**	**Eligible Cost**	**Ineligible Cost**
Booth #1	$20,762	$0	$20,762
AMU for Booth #1	$22,447	$22,447	$0
Subtotal	*$43,209*		
AMU & Booth #1 Installation	$19,861	$10,318	$9,543
Total	*$63,070*	*$32,765*	*$30,305*
Booth #2	$24,290	$0	$24,290
AMU for Booth #2	$22,447	$22,447	$0
Subtotal	*$46,737*		
AMU & Booth #2 Installation	$19,861	$9,539	$10,322
AMU Duct for Booth #2	$6,895	$6,895	$0
Total	*$73,493*	*$38,881*	*$34,612*
Drying Booth	$29,036	$29,036	$0
Airless Sprayer for water-base paint	$18,262	$18,262	$0
25 Hp Air compressor	$11,855	$11,855	$0
Electrical (Leasehold Improvements)	$23,062	$15,375	$7,687
Grand Total	***$218,777***	***$146,173***	***$72,604***

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 20 years. No gross annual revenues associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings, however, operating costs increased.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The applicant states that the facility is in compliance with Department rules and statutes and with EQC orders. DEQ permits issued to facility: None

Reviewers: Lois L. Payne, P.E., SJO Consulting Engineers, Inc.
Dennis E. Cartier, Associate, SJO Consulting Engineers, Inc.
Dave Kauth, AQ-DEQ
Maggie Vandehey, DEQ

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation:	**APPROVE**
Applicant	**Willamette Industries, Inc.**
Application No.	**4936**
Facility Cost	**$11,638**
Percentage Allocable	**100%**
Useful Life	**7 years**

Pollution Control Facility Tax Credit: Water
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a lumber and veneer mill taking tax relief under taxpayer identification number 93-0312940. The applicant is the owned of the facility. The applicant's address is:

1300 SW Fifth Avenue, Suite 3800
Portland, OR 97201

Facility Identification

The certificate will identify the facility as:

Oil spill containment system.

The facility is located at:

1551 SW Lyle Street
Dallas, OR 97338

Technical Information

The claimed facility is an oil spill containment system consisting of a building and concrete enclosure which provides containment for the hydraulic unit of a newly installed edger. In the event of a hydraulic leak or rupture, the oil will be contained within the concrete enclosure, which has a capacity of 374 cubic feet. The spilled oil will then be cleaned.

Eligibility

ORS 468.155 (1)(a) The **sole purpose** of this **new installation** is to prevent a substantial quantity of water pollution.

ORS 468.155 (1)(b)(A) The prevention is accomplished by containment of industrial waste as defined in ORS 468B.005.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**02/05/98**
Application Substantially Complete	**11/17/98**
Construction Started	**12/01/96**
Construction Completed	**03/01/97**
Facility Placed into Operation	**03/01/97**

Facility Cost

Facility Cost	**$11,638**
Ineligible Costs	$ -
Eligible Facility Cost	**$11,638**

Invoices substantiated the cost of the facility. The cost of the facility does not exceed $20,000; therefore, an independent certified accountant's statement is not required.

Facility Cost Allocable to Pollution Control

According to ORS 468.190 (3), the only factor used to determine the percentage of the facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. The percentage of time the facility is used for pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.

DEQ permits issued to facility: ACDP No. 27-0177, NPDES General Permit 100-J, NPDES General Permit 500-J, and NPDES General Permit 1200W.

Reviewers: RCDulay

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant	**Wimer Logging Company**
Application No.	**4938**
Facility Cost	**$17,208**
Percentage Allocable	**100%**
Useful Life	**7 years**

Pollution Control Facility: Water
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a logging company taking tax relief under taxpayer identification number 93-0312940. The applicant is the owner of the facility. The applicant's address is:

1300 SW Fifth Ave.
Suite 3800
Portland, OR 97201

Facility Identification

The certificate will identify the facility as:

24 ft x 56 ft concrete wash slab and oil/water/grit separator tank.

The facility is located at:

600 Goldfish Farm Road
Albany, OR 97321

Technical Information

The claimed facility is a wash water treatment system consisting of concrete wash slab and an oil/water/grit separating tank. Logging equipment is washed at the concrete pad and the wastewater cascades through gutters and into the separating tank. The treated wastewater is discharged to the ground within the plant site. Washing of logging equipment using plain water and no discharge to surface water is considered as de minimis and does not need a waste discharge permit from the Department.

Eligibility

ORS 468.155 (1)(a)	The **sole purpose** of this **installation** is to control a substantial quantity of water pollution.
ORS 468.155 (1)(b)(A)	The control is accomplished with the use of treatment works for industrial waste as defined in ORS 468B.005.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**2/10/98**
Application Substantially Complete	**11/02/1998**
Construction Started	**6/1/97**
Construction Completed	**10/31/97**
Facility Placed into Operation	**10/31/97**

Facility Cost

Facility Cost		**$17,208**
Salvage Value	$	-
Government Grants	$	-
Other Tax Credits	$	-
Ineligible Costs	$	-
Eligible Facility Cost		**$17,208**

Invoices or canceled checks substantiated the cost of the facility. The facility cost does not exceed $20,000 and therefore, an external accounting review was not required.

Facility Cost Allocable to Pollution Control

According to ORS.190 (3), the facility cost does not exceed $50,000 and therefore, the only factor used to determine the percentage of the facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. The percentage of time this facility is used for pollution control and therefore, the percentage allocable to pollution control is100%.

Compliance

The facility is in compliance with Department rules and statutes.

Reviewers: RCDulay

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant	**Georgia-Pacific Resins, Inc.**
Application No.	**4939**
Facility Cost	**$776,183**
Percentage Allocable	**100%**
Useful Life	**10 years**

Pollution Control Facility: Air
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a formaldehyde & synthetic resin manufacturing plant taking tax relief under taxpayer identification number 58-1576916. The applicant is the owner of the facility. The applicant's address is:

1405 Antelope Road
White City, OR 97503

Facility Identification

The certificate will identify the facility as:

A regenerative thermal oxidizer (RTO).

The facility is located at:

1405 Antelope Road
White City, OR 97503

Technical Information

The air pollution control facility consists of a 38,180 cfm Durr regenerative thermal oxidizer and insulated stainless steel ducting. The system collects and destroys formaldehyde, methanol, VOC and carbon monoxide emissions that are generated from the two formaldehyde production units, two urea resin reactors and two blend tanks. The system has a 98+% destruction efficiency that destroys over 600,000 pounds of emissions per year. This system is an effective method of preventing or controlling chemical and corrosive emissions that are generated at the manufacturing plant.

Eligibility

ORS 468.155 (1)(a) The **principal purpose** of this **new** pollution control **device** is to reduce a substantial quantity of air pollution. The requirement is imposed by the Department under OAR Chapter 340, Divisions 28 and 32.

ORS 468.155 (1)(b)(B) The disposal or elimination of or redesign to eliminate air contamination sources and the use of air cleaning devices as defined in ORS 468A.005.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**12/31/97**
Application Substantially Complete	**12/31/97**
Construction Started	**10/16/95**
Construction Completed	**1/1/96**
Facility Placed into Operation	**1/2/96**

Facility Cost

Facility Cost		**$ 795,920**
Ineligible Costs		
	Unrelated consulting services	(7,075)
	Unsubstantiated Costs	(12,662)
Eligible Facility Cost		**$ 776,183**

Symonds, Evans & Larson, PC performed the accounting review of this application on behalf of the Department. Invoices or canceled checks substantiated the cost of the facility with the exception $12,662 of the cost of the Thermal Oxidizer. The application included outside consulting services, which is an ineligible portion of the cost because the services made no contribution to air pollution control or reduction.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost exceeds $50,000 and therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 15 years. No gross annual revenues associated with this facility.
ORS 468.190(1)(c) Alternative Methods	Alternative methods were investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.

DEQ permits issued to facility: Air Contaminant Discharge Permit number 15-0041
General NPDES Permit number 1200-Z

Reviewers: Dennis Cartier, Associate, SJO Consulting Engineers, Inc.
Lois L. Payne, P.E., SJO Consulting Engineers, Inc.
Symonds, Evans & Larson, CPA PC
Dave Kauth, AQ-DEQ

Tax Credit Review Report

Revised 2/27/98

Director's Recommendation: **APPROVE**

Applicant	**Willamette Industries, Inc.**
Application No.	**4942**
Facility Cost	**$16,336**
Percentage Allocable	**100%**
Useful Life	**7 years**

Pollution Control Facility: Noise
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a paper mill taking tax relief under taxpayer identification number 93-0312940. The applicant is the owner of the facility. The applicant's address is:

1300 SW Fifth Avenue
Suite 3800
Portland, OR 97201

Facility Identification

The certificate will identify the facility as:

West perimeter earth berm.

The facility is located at:

50 North Danebo Avenue
Eugene, OR 97402

Technical Information

This facility consists of a sloped earthern berm which is located along the west perimeter of the Eugene MDF site. The berm is installed in two sections, approximately 20 feet high and 25 feet wide at the base. One section is approximately 250 feet long and the other is approximately 400 feet long. The berm provides a noise barrier between the paper mill and the adjacent residential area.

Prior to the installation of the earthen berm and to the conversion of the Eugene particleboard plant to an MDF plant, a noise study was performed. The noise levels were measured and predictions of what noise increases might be expected after the conversion of the plant were made, then options for mitigating increases were examined. It was determined that the noise level needed to be reduced by an estimated 10dBA and that the earthen berm would achieve this necessary noise reduction. A confirming noise study was conducted following installation and showed that the noise levels are lower now than prior to the conversion to an MDF plant.

Eligibility

ORS 468.155 (1)(a) The **sole purpose** of this **new land** is to prevent, control or reduce a substantial quantity of noise pollution.

ORS 468.155 (1)(b)(C) The substantial reduction or elimination of or redesign to eliminate noise pollution or noise emission sources as defined by rule of the commission.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**2/13/98**
Additional Information Requested	**3/20/98**
Additional Information Received	**9/15/98**
Additional Information Received	**9/22/98**
Application Substantially Complete	**9/28/98**
Construction Started	**9/1/94**
Construction Completed	**2/19/96**
Facility Placed into Operation	**2/19/96**

Facility Cost

Facility Cost	**$ 16,336**
Ineligible Costs	$ -0
Eligible Facility Cost	**$ 16,336**

Invoices or canceled checks were not provided which could substantiate the cost of the facility, however, the applicant stated the two components were for an Acoustical Engineering noise study/control plan ($6,376) and berm construction ($9,600) by Staton Construction. An external accounting review was not required, however, **KPMG Peat Marwick, L.L.P.** provided the certified public accountant's statement on behalf of Willamette Industries.

Facility Cost Allocable to Pollution Control

According to ORS.190 (3), the facility cost does not exceed $50,000; therefore, the only factor used to determine the percentage of the facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. The facility is used 100% of the time for pollution control.

Compliance and Other Tax Credits

The applicant claims the facility is in compliance with Department rules and statutes and with EQC orders. There are no DEQ permits issued to claimed facility; however, the following DEQ permits have been issued to the Willamette Industries Eugene MDF Division:

ACDP 200529, issued 12/95;
Storm water 1200-W, issued 10/1/92;
Waste water 1700-J, issued 2/1/95.

Reviewers: Lois L. Payne, P.E., SJO Consulting Engineers, Inc.
Maggie Vandehey, DEQ

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant	**Roseburg Paving Co.**
Application No.	**4956**
Facility Cost	**$239,360**
Percentage Allocable	**100%**
Useful Life	**10 years**

Pollution Control Facility: Air
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as an asphalt hot mix manufacturing plant taking tax relief under taxpayer identification number 93-0774710. The applicant is the owner of the facility. The applicant's address is:

PO Box 1427
Roseburg, OR 97470

Facility Identification

The certificate will identify the facility as:

Gencor Model #132 Baghouse with 542 exhaust fan (40 hp).

The facility is located at:

186 Beaver State Road
Roseburg, OR 97470

Technical Information

The air pollution control facility consists of installation of a new Gencor "Ultra Plant" and baghouse with counterflow drum mixer with two zones: one for aggregate drying and one for mixing. Exhaust air from the baghouse is returned to the burner. The baghouse is sized at 72,000 cfm with a 5.46 to 1 air to cloth ratio. It has a cloth area of 13,195 square feet and uses 504-16 virgin Nomex bags.

This is a very effective means of removing particulate from the airstream. The particulate emissions at the facility are averaging 0.9 pounds per hour. Their air permit allows no more than 6.6 pounds per hour and no more than 0.04 grains per dry scf.

Eligibility

ORS 468.155 (1)(a)	The **principal purpose** of the installation of this new equipment is to prevent, control or reduce a substantial quantity of air pollution. The requirement is imposed by the DEQ under ACDP #10-0122, issued 7/11/98.
ORS 468.155 (1)(b)(B)	The disposal or elimination of or redesign to eliminate air contamination sources and the use of air cleaning devices as defined in ORS 468A.005

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**3/12/98**
Additional Information Requested	**4/17/98**
Additional Information Received	**10/14/98**
Application Substantially Complete	**10/15/98**
Construction Started	**2/26/96**
Construction Completed	**4/26/96**
Facility Placed into Operation	**4/30/96**

Facility Cost

Facility Cost	**$239,360**
Salvage Value	$ -
Government Grants	$ -
Other Tax Credits	$ -
Insignificant Contribution (ORS 468.155(2)(d)	$ -
Ineligible Costs	$ -
Eligible Facility Cost	**$239,360**

Copies of invoices were provided which substantiated the cost of the facility. **Kohnin, Larson, MacDonald, Wright and Company, P.C.** provided the certified public accountant's statement on behalf of Roseburg Paving.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost exceeds $50,000 and therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 10 years. No gross annual revenues associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	A cost savings is realized from using less raw material, however it does not offset the increase in operating costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes and with EQC orders.

DEQ permits issued to facility: ACDP #10-0122, issued July 11, 1994

Reviewers: Lois L. Payne, P.E., SJO Consulting Engineers, Inc.
Dave Kauth, A-DEQ
Maggie Vandehey, DEQ

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation:	**APPROVE**
Applicant	**Willamette Industries, Inc.**
Application No.	**4975**
Facility Cost	**$48,645**
Percentage Allocable	**100%**
Useful Life	**7 years**

Pollution Control Facility: Air
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a sawmill taking tax relief under taxpayer identification number 93-0312940. The applicant is the owner of the facility. The applicant's address is:

Coburg Division
1300 SW Fifth Avenue
Suite 3800
Portland, OR 97201

Facility Identification

The certificate will identify the facility as:

A Baghouse Dust Colletion System, bagfilter model 96MCF88.

The facility is located at:

92574 N Coburg Road
Eugene, OR 97408

Technical Information

A MAC baghouse dust collection system was installed to control the emissions off of a new trim saw. The system is sized for 6000 cfm and consists of a draw-through baghouse model 96MCF88, a #45 fan, a 30 hP, 1800 rpm motor, and an airlock with a 1-1/2 hP motor. The bagfilter has an air to cloth ratio of 7.03:1 and is very effective in removing particulate at the source. The dust collected in the bagfilter is dropped onto a conveyor that moves it into a truck bin for disposal.

This system was added at the same time a new trim saw was purchased. The new trim saw replaced an old one. The previous trim saw did not have any dust controls associated with it; the dust fell directly onto a conveyor which dumped it into a truck bin for disposal. This resulted in fugitive emissions inside and outside the Coburg sawmill plantsite. The addition of the baghouse decreases air pollution and provides for resource recovery of material that otherwise would be fugitive emissions or solid waste.

Eligibility

ORS 468.155 (1)(a) The **principal purpose** of this **new installation and equipment** is to prevent, control or reduce a substantial quantity of air pollution..
The requirement is imposed by the Department under the applicant ACDP #20-0524, issued 4/89 which requires that the applicant operate all air contaminant generating processes so that fugitive-type dust associated with the operation will be adequately controlled at all times.

ORS 468.155 (1)(b)(B) The disposal or elimination of or redesign to eliminate air contamination sources and the use of air cleaning devices as defined in ORS 468A.005

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**4/2/98**
Application Substantially Complete	**11/17/98**
Construction Started	**2/1/97**
Construction Completed	**2/1/97**
Facility Placed into Operation	**2/1/97**

Facility Cost

Facility Cost	**$ 48,645**
Ineligible Costs	$ -0
Eligible Facility Cost	**$ 48,645**

A copy of the purchase order and copies of the two invoices were provided which substantiated the cost of $48,645 for the facility. **KPNG Peat Marwick LLP** provided the certified public accountant's statement.

Facility Cost Allocable to Pollution Control

According to ORS.190 (3), the facility cost does not exceed $50,000 and therefore, the only factor used to determine the percentage of the facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. The percentage of time this facility is used for pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. The following DEQ permits have been issued to Willamette Industries Coburg Division:

ACDP 20-0524, issued 4/89
400J and 500J, issued 12/92
1200-W, issued 11/92

Reviewers: Lois L. Payne, P.E., SJO Consulting Engineers
Dave Kauth, DEQ
Maggie Vandehey, DEQ

Tax Credit Review Report

Revised 9/30/97

Director's Recommendation: **APPROVE**

Applicant	**Willamette Industries, Inc.**
Application No.	**4976**
Facility Cost	**$213,407**
Percentage Allocable	**100%**
Useful Life	**7 years**

Pollution Control Facility: Air
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a plywood manufacturing plant. The applicant is the owner of the facility and will be taking tax relief under taxpayer identification number 93-0312940. The applicant's address is:

Dallas Plywood Division
1300 SW Fifth Avenue
Suite 3800
Portland, OR 97201

Facility Identification

The certificate will identify the facility as:

A Qualair baghouse dust collection system

The facility is located at:

1551 SE Lyle Street
Dallas, OR 97338

Technical Information

The air pollution facility includes a Qualair Hog Dust Control System (baghouse), fans, motors, ducting, structural supports and foundations. The baghouse system (P-28) captures the dust particulate off of the tongue & groove machine, the bagfilter (P-21) relay fan, patch saws and cyclone (P-6). The discharge is routed to the cyclone (P-6) which dumps into a truck bin.

The replacement of the single head sander with a four-head sander would have increased air emissions beyond permitted levels without installing this equipment. Actual particulate emissions before and after this modification are less than 0.03 tons per year (60 pounds per year).

Eligibility

ORS 468.155 (1)(a)	The **principal purpose** of this **new equipment and installation** is to reduce a substantial quantity of air pollution. The requirement is imposed by the Department under the applicants Air Contaminant Discharge Permit #27-0177.
ORS 468.155 (1)(b)(B)	The reduction is accomplished by the use of air cleaning devices as defined in ORS 468A.005

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**4/2/98**
Application Substantially Complete	**11/17/98**
Construction Started	**1/17/97**
Construction Completed	**10/20/97**
Facility Placed into Operation	**10/20/97**

Facility Cost

Facility Cost	**$ 221,878**
Ineligible Costs	
Sprinkler System	(8,471)
Eligible Facility Cost	**$213,407**

Copies of purchase orders and invoices were provided which substantiated the cost of the facility. The facility cost was greater than $50,000 but less than $500,000; therefore **KPMG Peat Marwick L.L.P.** performed an accounting review in accordance with Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost exceeds $50,000 and therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 7 years. No gross annual revenues associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings however operating costs increased.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The applicant states that the facility is in compliance with Department rules and statutes and with EQC orders. DEQ permits issued to facility:

ACDP 27-0177, issued 7/95;
NPDES 100-J, 500-J, and 1200-W

Reviewers: Lois L. Payne, P.E., SJO Consulting Engineers
Dave Kauth, AQ-DEQ
Maggie Vandehey, DEQ

Tax Credit Review Report

Revised 9/30/97

Director's Recommendation: **APPROVE**

Applicant	**Willamette Industries, Inc.**
Application No.	**4982**
Facility Cost	**$52,755**
Percentage Allocable	**100%**
Useful Life	**7 years**

Pollution Control Facility: Noise
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a "paper mill" taking tax relief under taxpayer identification number 93-0312940. The applicant is the owner of the facility. The applicant's address is:

1300 SW Fifth Avenue
Suite 3800
Portland, OR 97201

Facility Identification

The certificate will identify the facility as:

Ten steam vent silencers

The facility is located at:

3152 Old Salem Road
Albany, OR 97321

Technical Information

This facility consists of ten silencers installed on the paper-machine roof's steam vents in order to muffle the noise caused by steam releases. All are Universal brand, end mount type with flanged connections. The table below lists the technical characteristics:

Plan	Size	Model No.	dBA Unsilenced	dBA Silenced
B	3"	HV 10-12	97	71
D	4"	HV 15-12	101	68
F	6"	HV 10-12	107	75
M	12"	HV 20-36	117	73
N	10"	HV 20-26	113	75
O	8"	HV 20-20	106	68
P	6"	HV 05-14	94	42
Q	6"	HV 15-12	100	65
R	6"	HV 20-8	103	50
V	6"	HV 10-12	96	70

There were no sound controls on the steam vents prior to this installation. The applicant reported that neighbors had telephoned in complaints about the noise from the steam vent releases prior to installation of the silencers but have not telephoned since they have been installed. Silencers are a proven method of noise reduction in steam vents.

Eligibility

ORS 468.155 (1)(a) The **sole purpose** of this **new equipment and installation** is to prevent, control or reduce a substantial quantity of noise pollution.

ORS 468.155 (1)(b)(C) The substantial reduction or elimination of or redesign to eliminate noise pollution or noise emission sources as defined by rule of the commission.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**4/2/98**
Additional Information Requested	**6/3/98**
Additional Information Received	**9/22/98**
Application Substantially Complete	**10/8/98**
Construction Started	**3/1/97**
Construction Completed	**8/1/97**
Facility Placed into Operation	**8/1/97**

Facility Cost

Facility Cost	**$ 52,755**
Ineligible Costs	$ -0
Eligible Facility Cost	**$ 52,755**

Invoices were provided which substantiated 97% of the cost of the facility. **KPMG Peat Marwick LLP** provided the certified public accountant's statement on behalf of Willamette Industries.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost exceeds $50,000 and therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 7 years. No gross annual revenues associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The applicant states the facility is in compliance with Department rules and statutes and with EQC orders.

There are no DEQ permits issued for the claimed facility. However, the following DEQ permits have been issued to Willamette Industries Albany Paper Mill:

Title V #22-0471, issued 3/2/98;
NPDES #10134, issued 11/30/95;
NPDES 1200-Z, issued 7/22/97;
DEQ SW disposal #1025 issued 4/30/97

Reviewers: Lois L. Payne, P.E., SJO Consulting Engineers
Dennis Cartier, Associate, SJO Consulting Engineers
Maggie Vandehey, DEQ

Tax Credit Review Report

Revised 9/30/97

Director's Recommendation:	**APPROVE**
Applicant	**Willamette Industries, Inc.**
Application No.	**4983**
Facility Cost	**$56,303**
% Allocable	**100%**
Useful Life	**7 years**

Pollution Control Facility: Water
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a paper mill taking tax relief under taxpayer identification number 93-0312940. The applicant is the owner of the facility. The applicant's address is:

Willamette Industries, Inc.
1300 SW Fifth Avenue
Suite 3800
Portland, OR 97201

Facility Identification

The certificate will identify the facility as:

A concrete containment structure 20' W x 28' L x 48" H around a 12,000 gallon sulfuric acid storage tank.

The facility is located at:

3152 Old Salem Road
Albany, OR 97321

Technical Information

The claimed facility consists of a concrete containment structure surrounding a 12,000 gallon sulfuric acid storage tank which is 20 feet wide, 28 feet long, and 48 inches high., and a 6 foot by 5 foot concrete area that surrounds the acid system pumps. The secondary containment structures are sized to contain the total volume of acid from the tank or pumps in the event of a rupture or spill. The concrete is lined with ¼-inch acid resistant polyethylene material to prevent corrosion of the concrete and therefore maintain structural integrity.

Sulfuric acid is a corrosive and a Class 2 water-reactive hazardous material having a health hazard ranking of 3. The sulfuric acid tank is the main holding tank for sulfuric acid at the Albany site. Sulfuric acid is transferred from this tank to the paper machine sulfuric acid day tank and to the demineralizer sulfuric acid day tank.

Eligibility

ORS 468.155 (1)(a) The **principal purpose** of the installation of this **new structure and installation** is to prevent, control, or reduce a substantial quantity of water pollution. Required by NPDES Stormwater Discharge Permit 1200-Z, issued July 22, 1997, by the DEQ.

OAR-016-0025 (2)(g) Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**4/2/98**
Additional Information Requested	**10/16/98**
Additional Information Received	**10/16/98**
Application Substantially Complete	**8/27/98**
Construction Started	**9/1/97**
Construction Completed	**1/31/98**
Facility Placed into Operation	**1/31/98**

Facility Cost

Facility Cost	$	**56,303**
Salvage Value	$	-
Government Grants	$	-
Other Tax Credits	$	-
Ineligible Costs	$	-
Eligible Facility Cost	$	**56,303**

The facility cost was greater than $50,000 but less than $500,000. Copies of invoices were provided which substantiated the cost of the facility. **KPMG Peat Marwick LLP** performed an accounting review and provided the certified public accountant's statement on behalf of the applicant and according to Department guidelines.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost exceeds $50,000 and therefore, the following factors would have been used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility for the purpose of the return on investment calculation is 7 years. No return on investment.
ORS 468.190(1)(c) Alternative Methods	Alternatives were not investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The applicant states that the facility is in compliance with Department rules and statutes and with EQC orders. The following DEQ permits have been issued to the Willamette Industries Albany site:

Title V #22-0471 issued 3/2/98
NPDES #10134 issued 11/30/95
NPDES 1200-Z issued 7/22/97
DEQ SW disposal #1025 issued 4/30/97

Reviewers: Lois L. Payne, P.E., SJO Consulting Engineers
Maggie Vandehey, DEQ

Tax Credit Review Report

Revised 9/30/97

Director's Recommendation:	**APPROVE**
Applicant	**Willamette Industries, Inc.**
Application No.	**4984**
Facility Cost	**$53,237**
Percentage Allocable	**100%**
Useful Life	**7 years**

Pollution Control Facility: Air
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a paper mill taking tax relief under taxpayer identification number 93-0312940. The applicant is the owner of the facility. The applicant's address is:

1300 SW Fifth Avenue
Suite 3800
Portland, OR 97201

Facility Identification

The certificate will identify the facility as:

A Waste Water Contaminant Removal System

The facility is located at:

3152 Old Salem Road
Albany, OR 97321

Technical Information

The waste water contaminant removal system consists of:

(1) Pulper sump slurry pump: Goulds standard HSU 036-75-1201, 4X4-10.210, 200 gpm at 40 ft. TDH, submersible with 20 Hp, 3 phase motor.
(2) Pulper sump agitator: Whitney Equipment Lightnin Series 10 Mixer, model 15Q5, serial number 97E8622801, 5 Hp motor.
(3) Electrical and piping materials and installation costs associated with above.

The system is used to separate plastics and other solid materials from the secondary fiber No. 3 pulper sewer sump. Removing the non-organic materials prevents them from plugging the sump pump and reduces the likelihood of settling pond overflow into Murder Creek. By removing non-organic contaminants from the waste stream, the mill effluent waste can be disposed of through land application. The mill effluent is now pumped through the settling ponds to the aeration basin.

Eligibility

ORS 468.155 (1)(a) The **sole purpose** of this **New Equipment and Installation** is to prevent, control or reduce a substantial quantity of water pollution.

OAR-016-0025 (2)(g) Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**4/2/98**
Additional Information Requested	**8/20/98**
Additional Information Received	**10/5/98**
Site Visit	**10/7/98**
Application Substantially Complete	**10/8/98**
Construction Started	**10/1/96**
Construction Completed	**3/1/97**
Facility Placed into Operation	**3/1/97**

Facility Cost

Facility Cost	**$ 72,153**
Ineligible Costs	
The following components were not used in this facility:	
Dewatering Screw	$ -7,000
Dewatering Screen	$ -11,916
Eligible Facility Cost	**$ 53,237**

Invoices were provided which substantiated 77% of the cost of the facility. **KPMG Peat Marwick LLP** provided the certified public accountant's statement on behalf of Willamette Industries.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost exceeds $50,000 and therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 7 years. No gross annual revenues associated with this facility.
ORS 468.190(1)(c) Alternative Methods	The applicant states that no alternatives were investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings, however operating costs increase.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The applicant states that the facility is in compliance with Department rules and statutes and with EQC orders.

DEQ permits issued to Willamette Industries for the Albany Paper Mill site:

Title V #22-0471, issued 3/2/98
NPDES #10134, issued 11/30/95
NPDES 1200-Z, issued 7/22/97
DEQ SW disposal #1025, issued 4/30/97

Reviewers: Lois L. Payne, P.E., SJO Consulting Engineers, Inc.
Dennis Cartier, Associate, SJO Consulting Engineers, Inc.
Maggie Vandehey, DEQ

Tax Credit Review Report

EQC 12/11/98

Director's Recommendation:	**APPROVE**
Applicant	**Willamette Industries, Inc.**
Application No.	**4985**
Facility Cost	**$53,042**
Percentage Allocable	**100%**
Useful Life	**7 years**

Pollution Control Facility: Air
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a "paper mill" taking tax relief under taxpayer identification number 93-0312940. The applicant is the owner of the facility. The applicant's address is:

1300 SW Fifth Avenue
Suite 3800
Portland, OR 97201

Facility Identification

The certificate will identify the facility as:

Effluent pump backup power

The facility is located at:

3152 Old Salem Road
Albany, OR 97321

Technical Information

Electric driven pumps are used to move effluent from the settling ponds to the aeration settling basin. Providing back-up power ensures that there will always be power to operate the pumps, therefore the settling pond will not overflow into Murder Creek. Prior to installation of this system, an unexpected loss of power resulted in an overflow of the effluent settling pond into Murder Creek.

The claimed facility consists of a backup power system which includes a feeder from a bank of transformers to a 400 amp disconnect switch. Additional feeders run from the disconnect switch (approximately 500 feet) to the motor control center (MCC) on the northeast side of the settling pond. An ASCO automatic transfer switch detects whether normal power exists from the co-generation system. If normal power through the MCC fails, the switch brings power from Pacific Power's line to one of the three pumps. When normal power is restored, the switch automatically switches back. The claimed facility is exclusively backup for the wastewater treatment system.

Eligibility

ORS 468.155 (1)(a) The **sole purpose** of this **new equipment and installation** is to prevent a substantial quantity of water pollution.

OAR-016-0025 (2)(g) Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**4/2/98**
Additional Information Requested	**8/20/98**
Additional Information Received	**8/25/98**
Additional Information Received	**10/5/98**
Application Substantially Complete	**10/8/98**
Construction Started	**10/1/96**
Construction Completed	**3/1/97**
Facility Placed into Operation	**3/1/97**

Facility Cost

Facility Cost	**$**	**53,042**
Salvage Value	$	- 0
Government Grants	$	- 0
Other Tax Credits	$	- 0
Ineligible Costs	$	- 0
Eligible Facility Cost	**$**	**53,042**

Invoices were provided which substantiated 90% of the cost of the facility. **KPMG Peat Marwick LLP** provided the certified public accountant's statement on behalf of Willamette Industries.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost exceeds $50,000 and therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 7 years. No gross annual revenues associated with this facility.
ORS 468.190(1)(c) Alternative Methods	Another alternative considered was to rent a generator to power the pumps. This was considered viable only for anticipated power interruptions and would not be acceptable in emergency situations.

ORS 468.190(1)(d) Savings or Increase in Costs	There are no savings but operating costs increase due to maintenance and cleaning.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The applicant states that the facility is in compliance with Department rules and statutes.

The backup power system is auxiliary equipment for the wastewater treatment system covered by the NPDES Permit No. 10134. The following DEQ permits have been issued to the Willamette Industries Albany Paper Mill site:

Title V #22-0471, issued 3/2/98
NPDES #10134, issued 11/30/95
NPDES 1200-Z, issued 7/22/97
DEQ SW disposal #1025, issued 4/30/97

Reviewers: Lois L. Payne, P.E., SJO Consulting Engineers, Inc.
Dennis Cartier, Associate, SJO Consulting Engineers, Inc.
Maggie Vandehey, DEQ

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant	**Willamette Industries, Inc.**
Application No.	**4988**
Facility Cost	**$57,820**
Percentage Allocable	**100%**
Useful Life	**7 years**

Pollution Control Facility: Air
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a mill. The applicant is the owner of the facility and will be taking tax relief under taxpayer identification number 93-0312940. The applicant's address is:

Woodburn EWP Division
1300 SW Fifth Avenue
Suite 3800
Portland, OR 97201

Facility Identification

The certificate will identify the facility as:

An upgrade of existing sawdust collection system using a Western Pneumatic 200 primary filter, model BH2.

The facility is located at:

2550 Progress Way
Woodburn, OR 97071

Technical Information

The facility consists of a Western Pneumatic baghouse filter, Model BH2. It filters the dusty air from the #1 bundle saw, the line 2 groover, and the finish saw. It has an airlock system and was connected to an existing baghouse system upstream of an existing cyclone. It is rated at 6500 cfm and has an air-to-cloth ratio of 6.7:1 with an efficiency rating of 99.99%. Baghouse technology is considered to be Best Available Control Technology.

Eligibility

ORS 468.155 (1)(a) The **principal purpose** of this **new equipment installation** is to prevent, control or reduce a substantial quantity of air pollution.
The requirement is imposed by the Department under the applicants Air Contaminant Discharge Permit #24-8060.

ORS 468.155 (1)(b)(B) The disposal or elimination of or redesign to eliminate air contamination sources and the use of air cleaning devices as defined in ORS 468A.005

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**4/3/98**
Application Substantially Complete	**11/17/98**
Construction Started	**3/10/97**
Construction Completed	**4/19/97**
Facility Placed into Operation	**4/19/97**

Facility Cost

Facility Cost	**$ 57,820**
Ineligible Costs	0
Eligible Facility Cost	**$ 57,820**

Copies of invoices were provided which substantiated the cost of the facility. **KPMG Peat Marwick L.L.P.** provided the certified public accountant's statement.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost exceeds $50,000 and therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 7 years. No gross annual revenues associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings; however, operating costs increase approximately $8,024.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The applicant states that this facility is in compliance with Department rules and statutes and with EQC orders. DEQ permits issued to facility:

Air Contaminant Discharge Permit #24-8060, dated 5/11/90
Stormwater 1200W, dated 2/93

Reviewers: Lois L. Payne, P.E., SJO Consulting Engineers
Dave Kauth, DEQ
Maggie Vandehey, DEQ

Tax Credit Review Report

EQC 12/11/98

Director's Recommendation:	**APPROVE**
Applicant	**Lamb-Weston, Inc.**
Application No.	**4993**
Facility Cost	**$2,018,468**
Percentage Allocable	**100%**
Useful Life	**10 years**

Pollution Control Facility Tax Credit: Water
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C Corporation operating as a plant producing a variety of frozen potato products taking tax relief under taxpayer identification number 47-0717390. The applicant's address is:

PO Box 379
Boardman, OR 97818

Facility Identification

The certificate will identify the facility as:

Wastewater treatment system consisting of an Eimco Model 600R Delta-Stak clarifier, a 88-foot Eimco concrete conventional clarifier, Penn Valley 4-inch sludge pump, Eimco vauum filter #82892-01, Waukesha SP100 cake transfer pump, waste hopper bins, oil tank, pumps, piping, electrical controls, building and related structures.

The facility is located at:

Boardman Plant
Columbia Ave. & Olson Road
Boardman, OR

Technical Information

The claimed facility is a wastewater treatment system consisting of clarifiers, a vacuum filter, transfer pump, waste hopper bins, an oil tank, pumps, piping, electrical controls, building and related structures.

Potatoes brought in by trucks are washed and the resulting muddy water is pumped into the Delta-Stak clarifier. The treated water is recycled for washing the potatoes and the dirt (sludge) is disposed of to the Port of Morrow irrigation fields. Wastewater from the potato processing and equipment washdown is collected into the drainage trenches, which discharge to a central sump. The wastewater is pumped to a fine mesh screen where solids are screened and then flows by gravity to the 88-foot

Eimco concrete clarifier. The treated wastewater is discharged by gravity to the Port of Morrow industrial wastewater sewer. The treated wastewater is metered and sampled for Total Suspended Solids (TSS) and pH.

Floating animal and vegetable oil is skimmed and pumped to an oil tank. The settled sludge (solids) is pumped to the Eimco vacuum filter system for further dewatering and the filter cake is collected in hopper bins for livestock feed. The solids from the fine mesh screen are also used as livestock feed.

Lamb Weston has an agreement with Oregon Potato Company to treat their potato processing wastewater and combine it with its discharge to the Port of Morrow sewer. The wastewater from OPC is discharged direct to the 88-foot Eimco clarifier.

Eligibility

ORS 468.155 (1)(a)	The **sole purpose** of the **new equipment and installation** claimed facility is to control a substantial quantity of water pollution.
ORS 468.155 (1)(b)(A)	This control is accomplished with the use of treatment works for industrial waste as defined in ORS 468B.005.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**4/17/98**
Application Substantially Complete	**10/26/98**
Construction Started	**7/1/96**
Construction Completed	**2/1/97**
Facility Placed into Operation	**2/1/97**

Facility Cost

Facility Cost			**$2,225,992**
Ineligible Costs			-
Replacement of metal roof	-	4,800	
Replacement of girts, base angel and framing	-	15,974	
Concrete near railroad tracks	-	6,500	
Raise existing waste fry tank	-	14,830	
Replacement of two hoppers	-	67,950	
Asphalt	-	97,470	
			($207,524)
Eligible Facility Cost			**$2,018,468**

A cost breakdown accompanied the application. Symonds, Evans & Larson, P.C. performed the accounting review on behalf of the Department and identified the ineligible costs upon inspecting vendor invoices, contractor billings and copies of cecks.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	Solids from the fine mesh screens and the filter cake from the vacuum filter are sold to feedlots for livestock feed. The animal/vegetable oil recovered from the wastewater treatment system is sold as yellow grease to a renderer.
ORS 468.190(1)(b) Return on Investment	The applicant claims that the revenue realized from the solids and filter cake sold to the feedlots is equal to the delivery expense. Considering the revenue and expenditures, including the water savings, there was not a positive return on investment.
ORS 468.190(1)(c) Alternative Methods	The alternative considered was for the Port of Morrow to construct and operate the wastewater treatment system. However, the Port of Morrow lacked the expertise to operate the treatment system. In addition, the capital and operating costs will be passed on to Lamb Weston and other Port residents.
ORS 468.190(1)(d) Savings or Increase in Costs	The wash water treated by the Delta-Stak clarifier is recycled for washing potato. This recycling system saves approximately 50 million gallons of water annually.
ORS 468.190(1)(e) Other Relevant Factors	Lamb-Weston entered into an agreement with Oregon Potato Company (OPC) to treat their wastewater prior to discharge to the Port of Morrow system. According to ORS 468.170 (1), "...The actual cost or portion of the actual cost certified shall not exceed the taxpayer's own cash investment in the facility or portion of the facility..." Based on the gallon's of water processed through each facility, the facility cost properly allocable to Lamb-Weston 79%.

Compliance

The Port of Morrow requires industrial wastewater discharge to its sewer system an effluent limit of 2030 mg/l for total suspended solids, TSS. Prior to the construction of the claimed facility Lamb Weston has been discharging effluent with TSS exceeding the ordinance limitations. The Port has advised Lamb Weston of its excellencies but did not take enforcement action. Lamb Weston voluntarily constructed the claimed facility and it is currently discharging at about 727 mg/l of total suspended solids. The claimed facility is in compliance with the Port of Morrow requirements for industrial wastewater discharge limitations.

Reviewers: R. C. Dulay
Maggie Vandehey
Symonds, Evans & Larson, P.C.

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant	**Richard T. McEwen**
Application No.	**4999**
Facility Cost	**$141,153**
Percentage Allocable	**90%**
Useful Life	**7 years**

Pollution Control Facility: USTs
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as commercial cardlock fuel facility taking tax relief under taxpayer identification number 93-1083912. The applicant is the owner of the facility. The applicant's address is:

Richard T. McEwen
6744 Harvest Dr. NE
Keizer, OR 97303

Facility Identification

The certificate will identify the facility as:

Two doublewall fiberglass clad steel tanks (one has 2-compartments), doublewall flexible plastic piping, spill containment basins, automatic tank gauge system, overfill alarm, turbine leak detectors, sumps, oil/water separator, automatic shutoff valves, stage I vapor recovery and monitoring wells

The facility is located at:
711 McClaine
Silverton, OR 97381

Technical Information

Double wall fiberglass tanks and doublewall flexible plastic piping for pollution control. Spill containment basins, sumps, oil/water separator and automatic shutoff valves for spill and overfill prevention. For leak detection – Turbine leak detectors and monitoring wells. In addition the following was installed to reduce air quality emissions – Stage I vapor recovery equipment

Eligibility

ORS 468.155 (1)(a)	The **purpose** with this **addition of equipment and devices** is to prevent, control or reduce a substantial quantity of air and water pollution..
OAR-016-0025 (2)(g)	Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**04/27/1998**
Application Substantially Complete	**05/01/0998**
Construction Started	**04/02/1996**
Construction Completed	**05/02/1996**
Facility Placed into Operation	**05/03/1996**

Facility Cost

Facility Cost	**$141,153**
Corrosion Protection	
Doublewall fiberglass tanks & piping	31,222
Spill & Overfill Prevention	
Spill containment basins	515
Sumps	2,825
Overfill alarm	482
Automatic shutoff valves	601
Oil/water separator	1,311
Leak Detection	
Tank gauge system	6,160
Turbine leak detectors	714
Monitoring wells	2,575
VOC Reduction	
Stage I vapor recovery	320
Labor, material, misc. parts	94,428
Eligible Facility Cost	**$141,153**

The facility cost was greater than $50,000 but less than $500,000. A Certified Public Accountant performed an accounting review accourding to Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost exceeds $50,000 and therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	No gross annual revenues were associated with this facility.
ORS 468.190(1)(c) Alternative Methods	The applicant chose the method considered to be most cost-effective. The methods chosen are acceptable for meeting the requirements of federal regulations.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	The Department has determined the percent allocable on the cost of a corrosion protected tank and piping system by using a formula based on the difference in cost between the protected tank and piping system and an

equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is $31,222 and the bare steel system is $12,751, the resulting portion of the eligible tank and piping cost allocable to pollution control is 59%. The applicant's cost for a tank gauge system is reduced to 90% of cost based on a determination by the Department that this is the portion properly allocable to pollut8ion control since the device can serve other purposes, for example, inventory control.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. especially, Underground Storage Tank requirements under OAR Chapter 340, Division 150.

DEQ permits issued to facility:

Reviewers: Barbara J Anderson

Tax Credit Review Report

EQC 12/11/98

Director's Recommendation: **APPROVE**

Applicant **Capital City Companies, Inc**
Application No. **5001**
Facility Cost **$150,211**
Percentage Allocable **92%**
Useful Life **7 years**

Pollution Control Facility: USTs
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is an S corporation operating as Performance testing laboratory. Taking tax relief under taxpayer identification number 93-0160700. The applicant is the owner of the facility. The applicant's address is:

Capital City Companies, Inc
1295 Johnson Street NE
Salem, OR 97303

Facility Identification

The certificate will identify the facility as:

Above ground storage tank system.

The facility is located at:

22 N Coast Hwy
Newport, OR 97365

Technical Information

For Corrosion protection – doublewall fiberglass clad steel tanks & flexible plastic piping. For Spill & Overfill Prevention – Spill containment basins, sumps, automatic shutoff valves, overfill alarm, oil/water separator, for Leak Detection – Tank gauge system, Turbine leak detectors and monitoring wells. For VOC Reduction – Stage II vapor recovery piping.

Eligibility

ORS 468.155 (1)(a) The **principal purpose** with this **new addition of equipment and devices** is to prevent, control or reduce a substantial quantity of air and water pollution.

OAR-016-0025 (2)(g) Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**04/30/1998**
Application Substantially Complete	**05/20/1998**
Construction Started	**09/06/1995**
Construction Completed	**05/10/1996**
Facility Placed into Operation	**05/10/1996**

Facility Cost

Facility Cost	**$150,211**
Corrosion Protection	
Doublewall fiberglass clad tanks and piping	32,930
Spill & Overfill Prevention	
Spill containment basins	493
Sumps	2,257
Automatic shutoff valves	67
Overfill Alarm	118
Oil/water separator	6,173
Leak Detection	
Tank gauge system	5,357
Turbine leak detectors	531
Monitoring wells	222
VOC Reduction	
Stage II vapor recovery piping	1,500
Labor, material, misc. parts	100,563
Eligible Facility Cost	**$150,211**

The facility cost was greater than $50,000 but less than $500,000. **William L Johnson** performed an accounting review accourding to Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost exceeds $50,000 and therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	No gross annual revenues were associated with this facility.
ORS 468.190(1)(c) Alternative Methods	The applicant chose the most cost-effective method. The methods chosen are acceptable for meeting the requirements of federal regulations
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	The Department has determined the percent allocable on the cost of a corrosion protected tank by using a formula based on the

difference in cost between the protected tank an equivalent bare steel tank as a percent of the protected tank. Applying this formula to the costs presented by the applicant, where the protected tank cost is $32,930 and the bare steel tank is $12,269, the resulting portion of the eligible tank costs allocable to pollution control is 63%. The applicant's cost for a tank gauge system is reduced to 90% of cost based on a determination by the Department that this is the portion properly allocable to pollution control since the device can serve other purposes, for example inventory control.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. especially, Underground Storage Tank requirements under OAR Chapter 340, Division 150.

DEQ permits issued to facility:

Reviewers: Barbara J Anderson

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant	**International Paper Co.**
Application No.	**5003**
Facility Cost	**$34,153**
Percentage Allocable	**100%**
Useful Life	**10 years**

Pollution Control Facility Tax Credit: Water
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as linerboard manufacturer taking tax relief under taxpayer identification number 13-0872805. The applicant is the owner of the facility. The applicant's address is:

International Paper Co.
POBox 854
Gardiner, OR 97441

Facility Identification

The certificate will identify the facility as:

Spill containment system with concrete paving and curbing.

The facility is located at:

Gardiner Paper Mill
77622 US Hwy 101
Gardiner, OR

Technical Information

The spill containment system consists of concrete paving and curbing at the caustizer tanks. Any spill in the area will be collected and diverted to the mill wastewater treatment facility.

Eligibility

ORS 468.155 (1)(a) The **sole purpose** of this **installation** is to prevent a substantial quantity of water pollution. Any spilled process water will be collected and discharged to the wastewater treatment system.

ORS 468.155 (1)(b)(A) The prevention is accomplished by the use of treatment works for industrial waste as defined in ORS 468B.005.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**01/13/1997**
Application Substantially Complete	**10/30/1998**
Construction Started	**01/23/1995**
Construction Completed	**01/26/1995**
Facility Placed into Operation	**01/31/1995**

Facility Cost

Facility Cost		**$34,153**
Salvage Value	$	-
Government Grants	$	-
Other Tax Credits	$	-
Ineligible Costs	$	-
Eligible Facility Cost		**$34,153**

Davis, Yecny & McCulloch, P.C. vouched all expenditures and examined a copy of related canceled checks.

Facility Cost Allocable to Pollution Control

According to ORS.190 (3), the facility cost does not exceed $50,000; therefore, the only factor used to determine the percentage of the facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. Therefore, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with the terms and conditions of its NPDES Waste Discharge Permit No. 101468. Other DEQ permits issued to facility: ACD Permit No. 10-0036 & Stormwater NPDES General Permit 1200P.

Reviewers: RC Dulay
M. Vandehey

Tax Credit Review Report

EQC 12/11/98

Director's Recommendation: **APPROVE**

Applicant **NACCO Materials Handeling Group, Inc**
Application No. **5021**
Facility Cost **$116,738**
Percentage Allocable 94%
Useful Life **7 years**

Pollution Control Facility: USTs
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is an S corporation operating as Performance testing laboratory. Taking tax relief under taxpayer identification number 93-0160700. The applicant is the owner of the facility. The applicant's address is:

NACCO Materials Handling Group, Inc.
PO Box 2902
Portland, OR 97208

Facility Identification

The certificate will identify the facility as:

One doublewall fireguard aboveground tank (with two compartments) and an oil/water separator.

The facility is located at:

4000 NE Blue Lake Road
Fairview, OR 97024

Technical Information

Doublewall fireguard aboveground tank for Corrosion protection and Oil/Water separator for spill and overfill prevention

Eligibility

ORS 468.155 (1)(a) OAR-016-0025 (2)(g)

The **principal purpose** with this **new addition of equipment and devices** is to prevent, control or reduce a substantial quantity of air and water pollution. Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**06/09/1998**
Application Substantially Complete	**10/29/98**
Construction Started	**07/09/1997**
Construction Completed	**03/06/1998**
Facility Placed into Operation	**03/06/1998**

Facility Cost

Facility Cost	**$116,738**
Doublewall Fireguard Tank	$ 15,207
Oil/Water Separator	$ 12,778
Other Tax Credits	$ 88,783
Eligible Facility Cost	**$116,738**

The facility cost was greater than $50,000 but less than $500,000. **Richard P. Siegert, CPA** performed an accounting review accourding to Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost exceeds $50,000 and therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	No gross annual revenues were associated with this facility.
ORS 468.190(1)(c) Alternative Methods	The applicant chose the most cost-effective method. The methods chosen are acceptable for meeting the requirements of federal regulations
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	The Department has determined the percent allocable on the cost of a corrosion protected tank by using a formula based on the difference in cost between the protected tank an equivalent bare steel tank as a percent of the protected tank. Applying this formula to the costs presented by the applicant, where the protected tank cost is $15,207 and the bare steel tank is $6,945, the resulting portion of the eligible tank costs allocable to pollution control is 54%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. especially, Underground Storage Tank requirements under OAR Chapter 340, Division 150.

DEQ permits issued to facility:

Reviewers: Barbara J Anderson

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation:	**APPROVE**
Applicant	**Truax Harris Energy, LLC**
Application No.	**5022**
Facility Cost	**$289,506**
Percentage Allocable	93%
Useful Life	7 **years**

Pollution Control Facility: USTs
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as commercial cardlock fuel facility taking tax relief under taxpayer identification number 93-1083912. The applicant is the owner of the facility. The applicant's address is:

Truax Harris Energy LLC
PO Box 607
Wilsonville, OR 97070

Facility Identification

The certificate will identify the facility as:
Stage I fill pipes and spill containment basins. Dbl wall tanks with fiberglass turvine sumps and manholes. Dbl wall pipe, pump containment boxes. Tank guage alarm and sensor system. Oil/water separator & drainage system (2 separators are required).

The facility is located at:
7832 Squirrel Hill Rd.
Salem, OR 97306

Technical Information

Double wall fiberglass tanks and doublewall flexible plastic piping for pollution control. Spill containment basins, sumps, oil/water separator and automatic shutoff valves for spill and overfill prevention. For leak detection – Turbine leak detectors and monitoring wells. In addition the following was installed to reduce air quality emissions – Stage I vapor recovery equipment

Eligibility

ORS 468.155 (1)(a) The **purpose** with this **addition of equipment and devices** is to prevent, control or reduce a substantial quantity of air and water pollution..

OAR-016-0025 (2)(g) Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**06/09/1998**
Application Substantially Complete	**10/29/1998**
Construction Started	**09/23/1996**
Construction Completed	**01/01/1997**
Facility Placed into Operation	**01/01/1997**

Facility Cost

Facility Cost	**$289,506**
Doublewall fiberglass tanks and piping	$ 55,158
Spill Containment basins	638
Sumps	3,492
Automatic shutoff valves	989
Oil/Water separator	8,599
Turbine Leak detectors	1,136
Monitoring wells	234
Labor, material, misc parts/stage I vapor recovery	206,089
Eligible Facility Cost	**$289,506**

The facility cost was greater than $50,000 but less than $500,000. **Moss-Adams, LLP** performed an accounting review accourding to Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost exceeds $50,000 and therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	No gross annual revenues were associated with this facility.
ORS 468.190(1)(c) Alternative Methods	The applicant chose the method considered to be most cost-effective. The methods chosen are acceptable for meeting the requirements of federal regulations.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	The Department has determined the percent allocable on the cost of a corrosion protected tank and piping system by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is $55,158 and the bare steel system is $18,611, the resulting portion of the eligible tank and piping cost allocable to pollution control is 66%. The applicant's cost for a tank gauge

system is reduced to 90% of cost based on a determination by the Department that this is the portion properly allocable to pollut8ion control since the device can serve other purposes, for example, inventory control.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. especially, Underground Storage Tank requirements under OAR Chapter 340, Division 150.

DEQ permits issued to facility:

Reviewers: Barbara J Anderson

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation:	**APPROVE**
Applicant	**L. & D., Inc. of Oregon**
Application No.	**5024**
Facility Cost	**$61,880**
Percentage Allocable	**98%**
Useful Life	**7 years**

Pollution Control Facility: USTs
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is an S corporation operating as a retail gas station taking tax relief under taxpayer identification number 93-0499074. The applicant is the owner of the facility. The applicant's address is:

L & D Inc. of Oregon
PO Box 5323
Bend, OR 97708

Facility Identification

The certificate will identify the facility as: **8861**

Doublewall flexible plastic piping, cathodic protection on three existing steel underground storage tanks, spill containment basins, automatic tank gauge system, overfill alarm and sumps.

The facility is located at:

235 SE 3rd Street
Bend, OR 97708

Technical Information: Doublewall flexible plastic piping and cathodic protection on existing steel underground storage tanks; spill containment basins, sumps and an over fill alarm; automatic tank gauge system.

Eligibility

ORS 468.155 (1)(a)	The **principal purpose** of this **improvement which includes installation, equipment and devices** is to prevent, control or reduce a substantial quantity of air and water pollution.
OAR-016-0025 (2)(g)	Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**06/18/1998**
Application Substantially Complete	**06/20/1998**
Construction Started	**02/16/1998**
Construction Completed	**03/08/1998**
Facility Placed into Operation	**03/10/1998**

Facility Cost

Facility Cost	**$61,880**
Doublewall fiberglass piping	$9,860
Cathodic protection on tanks	2,195
Spill containment basins	1,156
Sumps	3,764
Overfill alarm	300
Tank gauge system	10,203
Labor, Material, Misc. Parts	34,402
Eligible Facility Cost	**$61,880**

The facility cost was greater than $50,000 but less than $500,000. **Douglas R. Kerkoch, CPA** performed an accounting review accourding to Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost exceeds $50,000 and therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	There is no annual percent return on investment. No gross annual revenues were associated with this facility.
ORS 468.190(1)(c) Alternative Methods	The methods chosen are acceptable for meeting the requirements of federal regulations.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	The Department has determined the percent allocable on the cost of a corrosion protected piping system by using a formula based on the difference in cost between the protected piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is $9,860 and the bare steel system is $493, the resulting portion of the eligible piping cost allocable to pollution control is 95%. The applicant's cost for a tank gauge

system is reduced to 90% of cost based on a determination by the department that this is the portion properly allocable to pollution control since the device can serve other purposes, for example, inventory control.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. especially, Underground Storage Tank requirements under OAR Chapter 340, Division 150.

DEQ permits issued to facility:

Reviewers: Barbara J Anderson

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation:	**APPROVE**
Applicant	**Jerry Brown Company, Inc.**
Application No.	**5028**
Facility Cost	**$144,692**
Percentage Allocable	**90%**
Useful Life	**7 years**

Pollution Control Facility: USTs
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as retail gas station taking tax relief under taxpayer identification number 93-0763424. The applicant is the owner of the facility. The applicant's address is:

The Jerry Brown Company, Inc.
PO Box 337
Junction City, OR 97448

Facility Identification

The certificate will identify the facility as: **6963**

Two doublewall fiberglass tanks, doublewall flexible plastic piping, spill containment basins, automatic tank gauge system, turbine leak detectors, sumps, automatic shutoff valves and Stage II vapor recovery piping.

The facility is located at:

4945 Barger Drive
Eugene, OR 97402

Technical Information

Doublewall fiberglass tanks and double wall flexible plastic piping were added for Corrosion Protection. Spill containment basins, sumps and automatic shutoff valves for spill and overfill prevention. For leak detection automatic tank gauge system and turbine leak detectors were added. Stage II vapor recovery piping was also added for VOC reduction.

Eligibility

ORS 468.155 (1)(a) The **principal purpose** of this **improvement, which includes installation, equipment and devices** is to prevent, control or reduce a substantial quantity of air and water pollution.

OAR-016-0025 (2)(g) Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**06/22/1998**
Application Substantially Complete	**6/24/1998**
Construction Started	**03/01/1996**
Construction Completed	**06/30/1996**
Facility Placed into Operation	**06/30/1996**

Facility Cost

Facility Cost	**$144,692**
Doublewall fiberglass tanks w/flexible piping	36,202
Spill containment basins	2,430
Sumps	2,382
Automatic shutoff valves	1,206
Tank gauge system	6,962
Turbine Leak detectors	2,320
Stage II vapor recovery piping	392
Labor, Material, Misc. Parts	92,798
Eligible Facility Cost	**$144,692**

The facility cost was greater than $50,000 but less than $500,000. **Gary Kronmiller, CPA** performed an accounting review accourding to Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost exceeds $50,000 and therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 7 years. No gross annual revenues were associated with this facility.
ORS 468.190(1)(c) Alternative Methods	Most cost effective method was used.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	The Department has determined the percent allocable on the cost of a corrosion protected tank and piping system by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is $36,202 and the bare steel system is $14,599, the resulting portion of the eligible tank and piping cost allocable to pollution control is

60%. The applicant's cost for a tank gauge system is reduced to 90% of cost based on a determination by the Department that this is the portion properly allocable to pollution control since the device can serve other purposes, for example, inventory control.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. especially, Underground Storage Tank requirements under OAR Chapter 340, Division 150.

DEQ permits issued to facility:

Reviewers: Barbara J Anderson

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation:	**APPROVE**
Applicant	**Willamina Lumber Company**
Application No.	**5035**
Facility Cost	**$147,544**
Percentage Allocable	**100%**
Useful Life	**7 years**

Pollution Control Facility: Water
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as lumber company taking tax relief under taxpayer identification number 93-0589650. The applicant is the owner of the facility. The applicant's address is:

Willamina Lumber Company
9400 SW Barnes Rd, Suite 400
Portland, OR 97225

Facility Identification

The certificate will identify the facility as:

An equipment wash facility

The facility is located at:

3111 3rd Street
Tillamook, OR 97141

Technical Information

The Mobile Equipment Wash Facility (MEWF) is an enclosed building with a concrete slab floor. Dirt and grease are removed from log and lumber handling vehicles using a high-pressure wash system with 100 percent recycling of wash water. The system includes sumps, piping, and an oil/water separator.

Eligibility

ORS 468.155 (1)(a)	The **sole purpose** of this **new building** is to prevent, control or reduce a substantial quantity of water pollution.
ORS 468.155 (1)(b)(A)	The disposal or elimination of or redesign to eliminate industrial waste and the use of treatment works for industrial waste as defined in ORS 468B.005
OAR-016-0025 (2)(g)	Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**07/16/1998**
Application Substantially Complete	**10/28/1998**
Construction Started	**09/01/1997**
Construction Completed	**01/01/1998**
Facility Placed into Operation	**01/01/1998**

Facility Cost

Facility Cost	**$147,544**
Salvage Value	$ -
Government Grants	$ -
Other Tax Credits	$ -
Ineligible Costs	$ -
Eligible Facility Cost	**$147,544**

The facility cost was greater than $50,000 but less than $500,000; therefore, **Arthur Anderson LLP** performed an accounting review on behalf of the Applicant. Invoices substantiated the cost of the facility.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost exceeds $50,000 and therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 7 years. No gross annual revenues were associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.

DEQ permits issued to facility:

Reviewers: Elliott Zais

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant **Willamina Lumber Company**
Application No. **5036**
Facility Cost **$390,846**
Percentage Allocable **100%**
Useful Life **10 years**

Pollution Control Facility: Water
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as saw mill and planning mill for dimensional lumber taking tax relief under taxpayer identification number 93-0589650. The applicant is the owner of the facility. The applicant's address is:

Willamina Lumber Company
9400 SW Barnes Rd., Suite 400
Portland, OR 97225

Facility Identification

The certificate will identify the facility as:

Stormwater and erosion control paving and a sediment detention pond installed as stormwater management measures.

The facility is located at:

3111 3rd Street
Tillamook, OR 97141

Technical Information

The facility consists of storm water erosion control paving and a sediment detention pond. The paving includes proper grading, compacted base rock and compacted asphalt. The pond includes inlet and outlet pipe, concrete blocks, and riprap. Prior to storm water and erosion control paving, the gravel ground surface became muddy during rainstorms and the storm water eroded the ground surface and discharged sediment and wood debris into nearby surface water. Paved areas are cleaned of dirt and debris prior to rain events to prevent this material from entering surface water. More bark and wood that would have been contaminated with dirt in unpaved areas and disposed of in a landfill can now be recovered and used as hog fuel. Less mud and contaminated bark is hauled to the landfill during wet weather because the ground surface is not exposed.

Prior to the installation of the pond, sediment and wood debris were not controlled before storm water discharged to surface water. The pond reduces the amount of sediment and wood debris entering surface waters. It has been cleaned out of sediment and debris that would have been part of a storm water discharge.

Eligibility

ORS 468.155 (1)(a)	The **principal purpose** of this **new paving and sediment detention pond** is to prevent, control or reduce a substantial quantity of water pollution.
ORS 468.155 (1)(b)(A)	The disposal or elimination of or redesign to eliminate industrial waste and the use of treatment works for industrial waste as defined in ORS 468B.005
OAR-016-0025 (2)(g)	Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**07/16/1998**
Application Substantially Complete	**11/02/1998**
Construction Started	**08/01/1997**
Construction Completed	**09/01/1997**
Facility Placed into Operation	**09/01/1997**

Facility Cost

Facility Cost	**$390,846**
Salvage Value	$ -
Government Grants	$ -
Other Tax Credits	$ -
Insignificant Contribution (ORS 468.155(2)(d)	$ -
Ineligible Costs	$ -
Eligible Facility Cost	**$390,846**

The facility cost was greater than $50,000 but less than $500,000. Maggie Vandehey performed the accounting review on behalf of the applicant. Invoices and canceled checks substantiated 100% of the claimed facility cost.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost exceeds $50,000 and therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 15 years. No gross annual revenues were associated with this facility.
ORS 468.190(1)(c) Alternative Methods	Other alternatives were considered, but considered infeasible due to lack of sufficient area.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.

DEQ permits issued to facility: 1200-Z NPDES storm water permit

Reviewers: Elliot Zais

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant	**SAFEWAY INC.**
Application No.	**5043**
Facility Cost	**$530,371**
Percentage Allocable	**100%**
Useful Life	**7 years**

Pollution Control Facility: Water
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as grocery distribution center, milk plant and a bread plant taking tax relief under taxpayer identification number 94-3019135. The applicant is the owner of the facility. The applicant's address is:

Safeway Inc.
5918 Stoneridge Mall Rd
Pleasanton, CA 94588-3229

Facility Identification

The certificate will identify the facility as:

A pH neutralization system and a system to reduce the amount of Biological Oxygen Demand and Suspended Solids in Milk Plant wastewater by 50%.

The facility is located at:

Safeway Inc.
16800 SE Evelyn Street
Clackamas, OR 97015

Technical Information

The applicant installed a pH neutralization system consisting of a neutralizing tank, a polishing tank, chemical metering pumps and instrumentation. The system was installed to prevent the discharge of wastewater that is outside the pH range of 5.5 to 11 as required by Clackamas County Service District No.1. The milk plant and bread plant generated high levels of biological oxygen demand (BOD) and suspended solids (SS) which Clackamas County required a 50% reduction. The actual reduction OD BOD was 56% and reduction of SS was 73%. This was accomplished by modification of the process to capture the initial rinse water that is high in BOD and SS. The material is routed to a holding tank where it is hauled off site as a cattle feed supplement.

Eligibility

ORS 468.155 (1)(a)	The **principal purpose** of this **new installation and equipment** is to control and reduce a substantial quantity of water pollution.
ORS 468.155 (1)(b)(A)	The disposal or elimination of or redesign to eliminate industrial waste and the use of treatment works for industrial waste as defined in ORS 468B.005
OAR-016-0025 (2)(g)	Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**07/24/1998**
Application Substantially Complete	**11/2/98**
Construction Started	**06/28/1994**
Construction Completed	**07/12/1997**
Facility Placed into Operation	**07/12/1997**

Facility Cost

Facility Cost		**$830,696**
Salvage Value		$ -
Government Grants		$ -
Other Tax Credits		$ -
Insignificant Contribution (ORS 468.155(2)(d)		$ -
Ineligible Costs		**(300,325)**
Ladder, catwalk & platforms	(1,173)	
Safety equipment	(1,601)	
Fencing	(1,543)	
Paving	(2,498)	
Alcove & truck dock	(14,860)	
Steam piping	(3,835)	
Skid & shrink wrap	(1,000)	
Room air conditioner	(569)	
Three ss yogurt pots	(3,946)	
Conductivity analyzer	(1,560)	
CIP system - 75% of total cost	(71,034)	
Sensors	(16,387)	
Laptop computer	(7,924)	
Software	(172,395)	
Eligible Facility Cost		**$530,371**

The facility cost exceeds $500,000; therefore Maggie Vandehey performed an accounting review of 100% of the invoices on behalf of the Department.

The claimed facility included costs that were not directly related to the reduction of pollutants in the wastewater. The above table lists the ineligible items. These items are ineligible because their purpose and function is for safety, landscaping, conveying product, room conditioning, meeting health standards, and product processing, not for pollution control or reduction and not due to the applicants wastewater discharge permit requirements. The monitoring system is required for billing purposes, but not for permit compliance.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost exceeds $50,000 and therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 7 years. No gross annual revenues were associated with this facility.
ORS 468.190(1)(c) Alternative Methods	Several alternative methods were investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.

Permits issued to facility: Clackamas County Service District No. 1 Industrial Wastewater Discharge Permit No. 01K-017-D.

Reviewers: SJO Consulting Engineers, Dennis E. Cartier
SJO Consulting Engineers, Lois Payne
Maggie Vandehey

Tax Credit Review Report

12/11/1998

Director's Recommendation: **APPROVE**

Applicant **Campbell Crane & Rigging Service, Inc.**
Application No. **5052**
Facility Cost **$41,000**
Percentage Allocable **100%**
Useful Life **5 years**

Pollution Control Facility: Water
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is an S corporation operating as a "crane rental yard" taking tax relief under taxpayer identification number 93-0494105. The applicant is the owner of the facility. The applicant's address is:

Campbell Crane & Rigging Service Inc.
PO Box 11347
Portland, OR 97211

Facility Identification

The certificate will identify the facility as:

A waste water treatment facility.

The facility is located at:

8001 NE 14th Place
Portland, OR 97211

Technical Information

The facility is a clarifier system manufactured by Landa Water Cleaning Systems. The model is called Water Maze Alpha-3100D. The system removes oils and solids that are generated during the cleaning of equipment.

Eligibility

ORS 468.155 (1)(a) The **principal purpose** of this **new installation** is to prevent, control or reduce a substantial quantity of water pollution. The City of Portland, Environmental Services Department issued Campbell Crane a letter on 4/4/97, requiring them to treat wash water prior to discharge. This is a requirement passed through to the City from DEQ.

ORS 468.155 (1)(b)(A) The disposal or elimination of or redesign to eliminate industrial waste and the use of treatment works for industrial waste as defined in ORS 468B.005

OAR-016-0025 (2)(g) Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**08/06/1998**
Application Substantially Complete	**10/15/1998**
Construction Started	**04/01/1998**
Construction Completed	**05/11/1998**
Facility Placed into Operation	**05/11/1998**

Facility Cost

Facility Cost		**$41,000**
Salvage Value	$	-
Government Grants	$	-
Other Tax Credits	$	-
Insignificant Contribution ORS 468.155(2)(d)	$	-
Ineligible Costs	$	-
Eligible Facility Cost		**$41,000**

The facility cost does not exceed $50,000; therefore, an independent accounting review was not required. Invoices or canceled checks substantiated the cost of the facility.

Facility Cost Allocable to Pollution Control

The facility cost does not exceed $50,000. According to ORS 468.190 (3), the only factor used to determine the percentage of the facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. Therefore, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.

DEQ permits issued to facility: None.

Reviewers: Dennis Cartier, SJO Consulting Engineers

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **PRELIMINARY APPROVE**

Applicant **Sunshine Dairy Foods, Inc.**
Application No. **5054**

Pollution Control Facility: Water
Preliminary Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is an S corporation operating as a dairy. As the owner of the facility, the applicant will take tax relief under taxpayer identification number 93-0292580. The applicant's address is:

Sunshine Dairy Foods Inc.
801 NE 21st Street
Portland, OR 97232-2280

Facility Identification

The certificate will identify the facility as:

A pH neutralization system.

The facility is located at:

8440 NE Halsey Street
Portland, OR 97232

Technical Information

The applicant is proposing to construct a system that will gather untreated process wastewater and equipment wash water and analyze the pH. They also are proposing to install a chemical feed system that will automatically adjust the pH to the range specified by the City of Portland. If the facility were constructed as outline in the request for Preliminary Certification, it would be eligible for pollution control tax credit.

Eligibility

ORS 468.155 (1)(a)	The **principal purpose** of this **new equipment and installation** is to prevent, control or reduce a substantial quantity of water pollution.
ORS 468.155 (1)(b)(A)	The disposal or elimination of or redesign to eliminate industrial waste and the use of treatment works for industrial waste as defined in ORS 468B.005
OAR-016-0025 (2)(g)	Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

Reviewers: SJO Consulting Engineers

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation:	**APPROVE**
Applicant	**Sunset Fuel Company**
Application No.	**5055**
Facility Cost	**$29,669**
Percentage Allocable	**100%**
Useful Life	**7 years**

Pollution Control Facility: USTs
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a bulk heating oil storage/distribution facility taking tax relief under taxpayer identification number 93-0292390. The applicant is the owner of the facility. The applicant's address is:

Sunset Fuel Company
PO Box 42287
Portland, OR 97242

Facility Identification

The certificate will identify the facility as: **8115**

Epoxy lining and impressed current cathodic protection on two existing steel underground storage tanks and piping, spill containment basins and underground preparation for an automatic tank gauge system.

The facility is located at:

2944 SE Powell
Portland, OR 97242

Technical Information The applicant installed Epoxy lining, impressed current cathodic protection on existing steel underground storage tanks, piping, and spill containment basins for corrosion protection, spill and overfill prevention. For leak detection underground preparation for an automatic tank gauge system.

Eligibility

ORS 468.155 (1)(a) The principal **purpose** of this **improvement which includes installation, equipment, and devices** is to prevent, control or reduce a substantial quantity of air and water pollution.

OAR-016-0025 (2)(g) Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**08/06/1998**
Application Substantially Complete	**09/01/1998**
Construction Started	**05/12/1998**
Construction Completed	**06/01/1998**
Facility Placed into Operation	**06/01/1998**

Facility Cost

Facility Cost	**$29,669**
Epoxy tank lining	16,600
Cathodic protection on tanks	8,400
Spill Containment basins	2,350
Underground preparation for tank gauge system	1,050
Labor, Material, Misc. Parts	1,269
Eligible Facility Cost	**$29,669**

Invoices or canceled checks substantiated the cost of the facility. The facility cost does not exceed $50,000; therefore, an independent accounting review was not required.

Facility Cost Allocable to Pollution Control

According to ORS 468.190 (3), the facility cost does not exceed $50,000; therefore, the only factor used to determine the percentage of the facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. The percentage of time this facility is used for pollution control is 100%.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	No gross annual revenues were associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. especially, Underground Storage Tank requirements under OAR Chapter 340, Division 150.

DEQ permits issued to facility:

Reviewers: Barbara J Anderson

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant	**Norman H. & Vivian Faulkner**
Application No.	**5057**
Facility Cost	**$79,508**
Percentage Allocable	**92%**
Useful Life	**7 years**

Pollution Control Facility: USTs
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is an individual operating as a "retail grocery store/gas station" taking tax relief under taxpayer identification number 544-42-5215. The applicant is the owner of the facility. The applicant's address is:

Norman H. & Vivian Faulkner
DBA: Texaco Food Mart
1515 N Hwy 97
Redmond, OR 97756

Facility Identification

The certificate will identify the facility as:

One doublewall fiberglass clad steel tank (two compartment), doublewall flexible plastic piping, spill containment basins, automatic tank gauge system, overfill alarm, line leak detectors, sumps, automatic shutoff valves and Stage II vapor recovery piping.

Facility ID No. 4849 is located at:

539 NW 6th Street
Redmond, OR 97756

Technical Information

The facility consists of equipment installed for:

1) Corrosion Protection - Doublewall fiberglass clad steel tank and doublewall flexible plastic piping.
2) Spill and Overfill Prevention - Spill containment basins, sumps, overfill alarm and automatic shutoff valves.
3) Leak Detection - Automatic tank gauge system and line leak detectors.
4) VOC Reduction – Stage II vapor recovery piping.

Eligibility

ORS 468.155 (1)(a) The **principal purpose** of this **new equipment and devices** is to prevent, control or reduce a substantial quantity of air and water pollution. The facility complies with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air.

OAR-016-0025 (2)(g) Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**08/11/1998**
Application Substantially Complete	**09/01/1998**
Construction Started	**05/01/1997**
Construction Completed	**09/01/1997**
Facility Placed into Operation	**09/01/1997**

Facility Cost

Corrosion Protection	
Doublewall fiberglass clad steel tanks & flexible plastic piping	$18,500
Spill & Overfill Prevention	
Spill containment basins	600
Sumps	1,750
Automatic shutoff valves	656
Overfill alarm	300
Leak Detection	
Tank gauge system	7,100
Line leak detectors	602
Claimed Facility Cost	**$79,508**
Eligible Facility Cost	**$79,508**

The facility cost was greater than $50,000 but less than $500,000. Therefore, **Rick Nissen, CPA** performed an accounting review according to Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost exceeds $50,000 and therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	The equipment does not recover or convert waste products into a salable or usable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 7 years. No gross

	annual revenues were associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated. The methods chosen are acceptable for meeting the requirements of federal regulations.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	The facility includes doublewall fiberglass clad steel tanks & flexible plastic piping costing $18,500. Based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is $18,500 and the bare steel system is $5,500, the resulting portion of the eligible tank and piping cost allocable to pollution control is 70%. $18,500 x 70% = $12,950. This reduces the facility cost to $73,958

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. especially, Underground Storage Tank requirements under OAR Chapter 340, Division 150.

DEQ permits issued to facility:

Reviewers: Barbara J Anderson

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant	**WSCO Petroleum Corp**
Application No.	**5059**
Facility Cost	**$166,175**
Percentage Allocable	**91%**
Useful Life	**7 years**

Pollution Control Facility: UST
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a service station that is taking tax relief under taxpayer identification number 97-0757213. The applicant is the owner of the facility. The applicant's address is:

WSCO Petroleum Corp
Astro #234
2929 NW 29th Avenue
Portland, OR 97210-1705

Facility Identification

The certificate will identify the facility as:

Three doublewall fiberglass clad steel tanks, flexible plastic piping, spill containment basins, automatic tank gauge system, overfill alarm, line leak detectors, sumps, oil/water separator, automatic shutoff valves and Stage I vapor recovery

The facility is located at:
401 E. Main Street
Winston, OR

Technical Information

For corrosion protection – Doublewall fiberglass clad steel tanks and doublewall flexible plastic piping. For spill and overfill prevention - Spill containment basins, sumps, oil/water separator, automatic shutoff valves and an overfill alarm. For leak detection - Automatic tank gauge system and line leak detectors. In addition, the following was installed to reduce air quality emissions. For VOC reduction – Stage I vapor recovery equipment.

Eligibility

ORS 468.155 (1)(a)	The **principal purpose** of this **addition which includes equipment and devices** is to prevent, control or reduce a substantial quantity of soil, water, and air pollution.
ORS 468.155 (1)(b)(A)	The disposal or elimination of or redesign to eliminate industrial waste and the use of treatment works for industrial waste as defined in ORS 468B.005
OAR-016-0025 (2)(g)	Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**08/19/1998**
Application Substantially Complete	**09/14/1998**
Construction Started	**03/24/1997**
Construction Completed	**06/01/1997**
Facility Placed into Operation	**06/12/1997**

Facility Cost

Facility Cost	**$166,175**
Corrosion Protection	
Doublewall fiberglass clad steel tanks & piping	39,374
Spill & Overfill Prevention	
Spill containment basins	1,064
Sumps	6,272
Automatic shutoff valves	1,057
Oil/water separator	5,400
Overfill alarm	300
Leak Detection	
Tank Gauge system	8,349
Line leak detectors	1,005
VOC Reduction	
Stage I vapor recovery	102,665
Eligible Facility Cost	**$166,175**

The facility cost was greater than $50,000 but less than $500,000; therefore, **Name of Applicant's Accounting firm** performed an accounting review accourding to Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost exceeds $50,000; therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 7 years. No gross annual revenues were associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	The Department has determined the percent allocable on the cost of a corrosion protected tank and piping system by using a formula based on the difference in cost between the protected tank and piping

system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is $39,374 and the bare steel system is $13,290, the resulting portion of the eligible tank and piping cost allocable to pollution control is 66%. The applicant's cost for a tank gauge system is reduced to 90% of cost based on a determination by the Deportment that this is the portion properly allocable to pollution control since the device can serve other purposes, for example, inventory control, reducing the eligible facility costs by an additional $835.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.

DEQ permits issued to facility:

Reviewers: Barbara J Anderson

Tax Credit Review Report

EQC 12/11/98

Director's Recommendation: **APPROVE**

Applicant	**Albany-Lebanon Sanitation, Inc.**
Application No.	**5060**
Facility Cost	**$152,131**
Percentage Allocable	**100%**
Useful Life	**7 years**

Pollution Control Facility: Solid Waste Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a recycling facility that is taking tax relief under taxpayer identification number 93-0593828. The applicant is the owner of the facility. The applicant's address is:

Albany-Lebanon Sanitation, Inc.
PO box 1929
Albany, OR 97321

Facility Identification

The certificate will identify the facility as:

A 1997 Volvo front loading truck, model EX64, serial number 4VMDCMME6VR742559, for cardboard recycling.

The facility is located at:

1214 SE Montgomery Street
Albany, OR

Technical Information: This truck is used to collect source separated corrugated cardboard from commercial customers and to deliver it to a cardboard processing facility. This truck and its cardboard collection route are part of a service-area-wide recycling service program offered by United Disposal for its collection customers.

Eligibility

ORS 468.155 (1)(a) The **sole purpose** of this **new equipment** is to prevent, control or reduce a substantial quantity of solid waste. This truck is used exclusively to collect recyclable cardboard.

ORS 468.155 (1)(b)(D) The use of a material recovery process which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.005.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**08/20/1998**
Application Substantially Complete	**10/08/1998**
Construction Started	**04/07/1997**
Construction Completed	**05/07/1997**
Facility Placed into Operation	**05/07/1997**

Facility Cost

Facility Cost	**$152,131**
Salvage Value	$ -
Government Grants	$ -
Other Tax Credits	$ -
Insignificant Contribution ORS 468.155(2)(d)	$ -
Ineligible Costs	$ -
Eligible Facility Cost	**$152,131**

The facility cost was greater than $50,000 but less than $500,000; therefore, Boldt, Carlisle & Smith LLC performed an accounting review according to Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

The facility cost exceeds $50,000. Therefore, according to ORS.190 (1), the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 7 years. The applicant's submittal shows a negative annual cash flow associated with cardboard collection and, therefore, a negative return on investment factor for the claimed facility. This makes the portion of the facility cost allocable to pollution control 100%.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.

There are no DEQ permits issued to this facility:

Reviewers: William R Bree

Tax Credit Review Report

EQC 12/11/98

Director's Recommendation: **APPROVE**

Applicant **Albany-Lebanon Sanitation, Inc.**
Application No. **5061**
Facility Cost **$189,877**
Percentage Allocable **100%**
Useful Life **7 years**

Pollution Control Facility: Solid Waste
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a recycling facility that is taking tax relief under taxpayer identification number 93-0593828. The applicant is the owner of the facility. The applicant's address is:

Albany-Lebanon Sanitation, Inc.
PO Box 1929
Albany, OR 97321

Facility Identification

The certificate will identify the facility as:

a 1998 Volvo truck model WXR42T serial Number 4VLEALPF9WN754565 and one Heil Rapid Rail Starr System trailer for the collection and transpoirt of yard debris.

The facility is located at:

1214 SE Montgomery St
Albany, OR 97321

Technical Information

This truck and trailer system is used to collect and transport source separated yard debris from residential customers to a yard debris composting facility.

Eligibility

ORS 468.155 (1)(a) The **purpose** of this **equipment** is to prevent, control or reduce a substantial quantity of solid waste.

ORS 468.155 (1)(b)(D) The use of a material recovery process which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.005.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**08/20/1998**
Application Substantially Complete	**10/08/1998**
Construction Started	**02/26/1998**
Construction Completed	**03/26/1998**
Facility Placed into Operation	**03/26/1998**

Facility Cost

Facility Cost	**$189,877**
Salvage Value	$ -
Government Grants	$ -
Other Tax Credits	$ -
Ineligible Costs	$ -
Eligible Facility Cost	**$189,877**

The facility cost was greater than $50,000 but less than $500,000; therefore, **Bolt, Carlisle & Smith, LLC** performed an accounting review according to Department guidelines on behalf of the Applicant. The applicant also submitted invoices to substantiate the claimed cost.

Facility Cost Allocable to Pollution Control

The facility cost exceeds $50,000. Therefore, according to ORS.190 the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 7 years. The annual cash flow for this facility was reported to be negative. Therefore the return on investment factor is negative and the portion allocable to pollution control is100%.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. There are no DEQ permits issued to this facility.

Reviewers: William R Bree

Tax Credit Review Report

EQC 12/11/1998

Pollution Control Facility: Solid Waste Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Director's Recommendation: **APPROVE**

Applicant	**United Disposal Service Inc.**
Application No.	**5062**
Facility Cost	**57,038**
Percentage Allocable	**100%**
Useful Life	**10 years**

Applicant Identification

The applicant is a C corporation operating as a recycling service that is taking tax relief under taxpayer identification number 93-0625022. The applicant is the owner of the facility. The applicant's address is:

United Disposal Service Inc.
2215 N Front Street
Woodburn, OR 97071

Facility Identification

The certificate will identify the facility as:

1250 Schaefer 95 gallon yard debris carts serial numbers #YD9500001 through #YD9501250

The facility is located at:

9613 Mill Creek Rd. SE
Aumsville, OR 97325

Technical Information

These specially designed carts are provided to residential customers for accumulation of source separation of yard debris. The yard debris is then collected in a designated yard debris collection truck. The special carts allow yard debris to be stored and collected without the use of plastic bags that creates a problem for yard debris processing facilities.

Eligibility

ORS 468.155 (1)(a) The **sole purpose** of this **new equipment** is to prevent, control or reduce a substantial quantity of solid waste. These conatianers are specially disigned for yard debrsi collection and are provide to residential customers solely for this purpose.

ORS 468.155 (1)(b)(D) The use of a material recovery process which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.005.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**08/28/1998**
Application Substantially Complete	**10/08/1998**
Construction Started	**04/10/1997**
Construction Completed	**05/12/1997**
Facility Placed into Operation	**07/01/1997**

Facility Cost

Facility Cost		**$57,038**
Salvage Value	$	-
Government Grants	$	-
Other Tax Credits	$	-
Insignificant Contribution ORS 468.155(2)(d)	$	-
Ineligible Costs	$	-
Eligible Facility Cost		**57,038**

The facility cost was greater than $50,000 but less than $500,000; therefore, Theodore R. Ahre, CPA, performed an accounting review according to Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

The facility cost exceeds $50,000. Therefore, according to ORS.190 (1), the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 10 years. The reported annual case flow is negative so the return on investment factor is also negative and the portion of the facility allocable to pollution control is 100%.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. There are no DEQ permits issued to this facility:

Reviewers: William R Bree

Tax Credit Review Report

EQC 12/11/1998

Pollution Control Facility: USTs
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Director's Recommendation: **APPROVE**

Applicant	**Leathers Enterprises**
Application No.	**5068**
Facility Cost	**$193,663**
Percentage Allocable	**89%**
Useful Life	**7 years**

Applicant Identification

The applicant is a C corporation operating as a retail and commercial motor fuel outlet that is taking tax relief under taxpayer identification number 93-1130446. The applicant is the owner of the facility. The applicant's address is:

Leathers Enterprises
22300 SE Stark Street
Gresham, OR 97030

Facility Identification

The certificate will identify the facility as:

Two doublewall fiberglass-clad steel tanks (one with two compartments), doublewall flexible plastic piping, automatic tank gauge system, overfill alarm, spill containment basins, monitoring wells, sumps, automatic shutoff valves and Stage I vapor recovery and Stage II vapor recovery piping.

The facility is located at:

3105 S Santiam Hwy
Albany, OR 97321

Technical Information: For corrosion protection - Doublewall fiberglass-clad steel tanks and doublewall flexible plastic piping. For spill and overfill prevention -Spill containment basins, sumps, overfill alarm and automatic shutoff valves. For leak detection - Automatic tank gauge system and monitoring wells. In addition, the following was installed to reduce air quality emissions: For VOC reduction – Stage I vapor recovery and Stage II vapor recovery piping.

Eligibility

ORS 468.155 (1)(a) The **purpose** of this **new installation, which includes equipment and devices,** is to prevent, control or reduce a substantial quantity of air and water pollution.

ORS 468.155 The disposal or elimination of or redesign to eliminate industrial waste and the

(1)(b)(A) use of treatment works for industrial waste as defined in ORS 468B.005
OAR-016-0025 (2)(g) Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**09/08/1998**
Application Substantially Complete	**11/02/1998**
Construction Started	**09/02/1997**
Construction Completed	**12/10/1997**
Facility Placed into Operation	**12/10/1997**

Facility Cost

Facility Cost	**$193,663**
Corrosion Protection	
Doublewall fiberglass/steel tanks & piping	$50,859
Spill & Overfill Prevention	
Spill containment basins	$2,323
Sumps	$7,246
Automatic shutoff valves	$1,344
Overfill alarm	$300
Leak Detection	
Automatic tank gauge	$11,444
Monitoring wells	$272
VOC Reduction	
Stage I/Stage II vapor recovery & piping	$2,497
Labor, material, misc. parts	$117,378
Eligible Facility Cost	**$193,663**

The facility cost was greater than $50,000 but less than $500,000; therefore, **James T Woodburn, CPA** performed an accounting review accourding to Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost exceeds $50,000; therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 7 years. No gross annual revenues were associated with this facility.

ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	The Department has determined the percent allocable on the cost of a corrosion protected tank and piping system by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is $50,859 and the bare steel system is $19,142, the resulting portion of the eligible tank and piping cost allocable to pollution control is 62%. The applicant's cost for a tank gauge system is reduced to 90% of cost based on a determination by the Department that this is the portion properly allocable to pollution control since the device can serve other purposes, for example, inventory control.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. especially, Underground Storage Tank requirements under OAR Chapter 340, Division 150.

DEQ permits issued to facility:

Reviewers: Barbara J Anderson

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant	**Leathers Enterprises**
Application No.	**5069**
Facility Cost	**$234,987**
Percentage Allocable	**92%**
Useful Life	**7 years**

Pollution Control Facility: USTs
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a retail and commercial motor fuel outlet that is taking tax relief under taxpayer identification number 93-1130446. The applicant is the owner of the facility. The applicant's address is:

Leathers Enterprises
22300 SE Stark St
Gresham, OR 97030

Facility Identification

The certificate will identify the facility as:

Two doublewall fiberglass-clad steel tanks (one with two compartments), doublewall flexible plastic piping, automatic tank gauge system, overfill alarm, spill containment basins, monitoring wells, sumps, oil/water separator, automatic shutoff valves and Stage I vapor recovery and Stage II vapor recovery piping.

The facility is located at:

33385 Hwy 34 SE
Albany, OR 97321

Technical Information: 1) For corrosion protection – doublewall fiberglass-clad steel tanks and doublewall flexible plastic piping. 2) For spill and overfill prevention – Spill containment basins, sumps, overfill alarm, oil/water separator and automatic shutoff valves. 3) For leak detection – automatic tank gauge system and monitoring wells. In addition the following was installed to reduce air quality emissions. For VOC reduction – Stage I vapor recovery and Stage II vapor recovery piping.

Eligibility

ORS 468.155 (1)(a)	The **purpose** of this **new improvement, which includes, installation of equipment and devices** is to prevent, control or reduce a substantial quantity of air and water pollution.
ORS 468.155 (1)(b)(A)	The disposal or elimination of or redesign to eliminate industrial waste and the use of treatment works for industrial waste as defined in ORS 468B.005
OAR-016-0025 (2)(g)	Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**09/08/1998**
Application Substantially Complete	**11/02/1998**
Construction Started	**12/07/1997**
Construction Completed	**04/21/1998**
Facility Placed into Operation	**04/21/1998**

Facility Cost

Facility Cost	**$234,987**
Corrosion Protection	
Doublewall fiberglass/steel tanks & flexible plastic piping	47,457
Spill & Overfill Prevention	
Spill containment basins	9,230
Sumps	4,384
Automatic shutoff valves	1,397
Overfill alarm	300
Leak Detection	
Automatic tank gauge	9,059
Monitoring wells	241
Oil/water separator	1,620
VOC Reduction	
Stage I vapor recovery/Stage II vapor recovery piping	1,485
Labor, Material, Misc. parts	159,814
Eligible Facility Cost	**$234,987**

The facility cost was greater than $50,000 but less than $500,000; therefore, **James T Woodburn, CPA** performed an accounting review accourding to Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost exceeds $50,000; therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 7 years. No gross annual revenues were associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	The Department has determined the percent allocable on the cost of a corrosion protected tank and piping system by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is $47,457 and the bare steel system is $17,853, the resulting portion of the eligible tank and piping cost allocable to pollution control is 62%. The applicant's cost for a tank gauge system is reduced to ()% of cost based on a determination by the Department that this is the portion properly allocable to pollution control since the device can serve other purposes, for example, inventory control.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. especially, Underground Storage Tank requirements under OAR Chapter 340, Division 150.

DEQ permits issued to facility:

Reviewers: Barbara J Anderson

Tax Credit Review Report

EQC 12/11/1998

Pollution Control Facility: USTs
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Director's Recommendation: **APPROVE**

Applicant	**Leathers Enterprises**
Application No.	**5070**
Facility Cost	**$191,382**
Percentage Allocable	**91%**
Useful Life	**7 years**

Applicant Identification

The applicant is a C corporation operating as a retail and commercial motor fuel outlet that is taking tax relief under taxpayer identification number 93-1130446. The applicant is the owner of the facility. The applicant's address is:

Leathers Enterprises
22300 SE Stark St
Gresham, OR 97030

Facility Identification

The certificate will identify the facility as:

Three doublewall fiberglass-clad steel tanks doublewall flexible plastic piping, automatic tank gauge system, overfill alarm, spill containment basins, line/turbine leak detectors, monitoring wells, sumps, oil/water separator, automatic shutoff valves and Stage I vapor recovery and Stage II vapor recovery piping.

The facility is located at:

605 W Wade
Estacada, OR 97023

Technical Information

For corrosion protection – Doublewall fiberglass-clad steel tanks and doublewall flexible plastic piping. For spill and overfill prevention – Spill containment basins, sumps, overfill alarm and automatic shutoff valves. For leak detection – Automatic tank gauge system and turbine leak detectors. In addition the following was installed to reduce air quality emissions. For VOC reduction – Stage I vapor recovery and Stage II vapor recovery piping.

Eligibility

ORS 468.155 (1)(a)	The **purpose** of this **new improvement, which includes installation of equipment and devices,** is to prevent, control or reduce a substantial quantity of air and water pollution.
ORS 468.155 (1)(b)(A)	The disposal or elimination of or redesign to eliminate industrial waste and the use of treatment works for industrial waste as defined in ORS 468B.005
OAR-016-0025 (2)(g)	Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**09/08/1998**
Application Substantially Complete	**10/30/1998**
Construction Started	**12/08/1995**
Construction Completed	**07/01/1997**
Facility Placed into Operation	**05/17/1996**

Facility Cost

Facility Cost	**$191,382**
Corrosion Protection	
Doublewall fiberglass/steel tanks & piping	45,320
Spill & Overfill Prevention	
Spill containment basins	1,277
Sumps	3,849
Automatic shutoff valves	828
Oil/water separator	2,158
Overfill alarm	277
Leak Detection	
Automatic tank gauge	9,824
Line/turbine leak detectors	1,275
Monitoring wells	218
VOC Reduction	
Sate I vapor recovery and Stage II vapor recovery piping	14,839
Labor, material, misc. parts	111,517
Eligible Facility Cost	**$191,382**

The facility cost was greater than $50,000 but less than $500,000; therefore, **James T. Woodburn, CPA** performed an accounting review accourding to Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost exceeds $50,000; therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 7 years. No gross annual revenues were associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	The Department has determined the percent allocable on the cost of a corrosion protected tank and piping system by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is $45,320 and the bare steel system is $16,485, the resulting portion of the eligible tank and piping cost allocable to pollution control is 64% The applicant's cost for a tank gauge system is reduced to 90% of cost based on a determination by the Department that this is the portion properly allocable to pollution control since the device can serve other purposes, for example, inventory control.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. especially, Underground Storage Tank requirements under OAR Chapter 340, Division 150.

DEQ permits issued to facility:

Reviewers: Barbara J Anderson

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant	**Leathers Enterprises**
Application No.	**5071**
Facility Cost	**$248,242**
Percentage Allocable	**91%**
Useful Life	**7 years**

Pollution Control Facility: USTs
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a retail and commercial motor fuel outlet that is taking tax relief under taxpayer identification number 93-1130446. The applicant is the owner of the facility. The applicant's address is:

Leathers Enterprises
22300 SE Stark St
Gresham, OR 97030

Facility Identification

The certificate will identify the facility as:

Three doublewall fiberglass-clad steel tanks, doublewall flexible plastic piping, automatic tank gauge system, overfill alarm, spill containment basins, turbine leak detectors, sumps, automatic shutoff valves, Stage I vapor recovery and Stage II vapor recovery piping, monitoring walls and an oil/water separator. The facility is located at:

1202 Oregon Avenue
Hines, OR 97738

Technical Information:

For corrosion protection – Doublewall fiberglass-clad steel tanks and doublewall flexible plastic piping. For spill and overfill prevention – Spill containment basins, sumps, overfill alarm and automatic shutoff valves. For leak detection – Automatic tank gauge system and turbine leak detectors. In addition the following was installed to reduce air quality emissions. For VOC reduction – Stage I vapor recovery and Stage II vapor recovery piping.

Eligibility

ORS 468.155 (1)(a)	The **purpose** of this new installation of equipment and devices is to prevent, control or reduce a substantial quantity of air and water pollution.
ORS 468.155 (1)(b)(A)	The disposal or elimination of or redesign to eliminate industrial waste and the use of treatment works for industrial waste as defined in ORS 468B.005
OAR-016-0025	Installation or construction of facilities which will be used to detect, deter, or

(2)(g) prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**09/08/1998**
Application Substantially Complete	**10/30/1998**
Construction Started	**06/02/1997**
Construction Completed	**10/08/1997**
Facility Placed into Operation	**10/08/1997**

Facility Cost

Facility Cost	**$248,242**
Corrosion Protection	
Doublewall fiberglass/steel tanks & plastic piping	66,586
Spill & Overfill Prevention	
Spill containment basins	2,723
Sumps	5,668
Automatic shutoff valves	2,708
Overfill alarm	300
Leak Detection	
Automatic tank gauge w/alarm	10,448
Turbine leak detectors	386
VOC Reduction	
Stage I/Stage II vapor recovery and piping	5,157
Labor, material, misc. parts	154,266
Eligible Facility Cost	**$248,242**

The facility cost was greater than $50,000 but less than $500,000; therefore, **James T Woodburn, CPA** performed an accounting review accourding to Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost exceeds $50,000; therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 7 years. No gross annual revenues were associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	The Department has determined the percent

allocable on the cost of a corrosion protected tank and piping system by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is $66,586 and the bare steel system is $21,159, the resulting portion of the eligible tank and piping cost allocable to pollution control is 68%. The applicant's cost for a tank gauge system is reduced to 90% of cost based on a determination by the Department that this is the portion properly allocable to pollution control since the device can serve other purposes, for example, inventory control.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. especially, Underground Storage Tank requirements under OAR Chapter 340, Division 150.

DEQ permits issued to facility:

Reviewers: Barbara J Anderson

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant	**Leathers Enterprises**
Application No.	**5072**
Facility Cost	**$165,100**
Percentage Allocable	**89%**
Useful Life	**7 years**

Pollution Control Facility: USTs
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a retail and commercial motor fuel outlet that is taking tax relief under taxpayer identification number 93-1130446. The applicant is the owner of the facility. The applicant's address is:

Leathers Enterprises
22300 SE Stark St
Gresham, OR 97030

Facility Identification

The certificate will identify the facility as:

Two doublewall fiberglass-clad steel tanks (one tank has two compartments), doublewall flexible plastic piping, automatic tank gauge system, overfill alarm, spill containment basins, turbine leak detectors, monitoring wells, sumps, oil/water separator, automatic shutoff valves and Stage I vapor recovery and Stage II vapor recovery piping.

The facility is located at:

603 E Main
John Day, OR 97845

Technical Information

To respond to Underground Storage Tank requirements under OAR 340-Division 150, the applicant installed: For corrosion protection – Doublewall fiberglass-clad steel tanks and doublewall flexible plastic piping. For spill and overfill prevention – Spill containment basins, sumps, oil/water separator, overfill alarm and automatic shutoff valves. For leak detection – Automatic tank gauge system, monitoring wells and turbine leak detectors. In addition, the following was installed to reduce air quality emissions. For VOC reduction – Stage I vapor recovery and Stage II vapor recovery piping.

Eligibility

ORS 468.155 (1)(a)	The **purpose** of this improvement, which includes installation of equipment and devices, is to prevent, control or reduce a substantial quantity of air and water pollution.
ORS 468.155 (1)(b)(A)	The disposal or elimination of or redesign to eliminate industrial waste and the use of treatment works for industrial waste as defined in ORS 468B.005
OAR-016-0025 (2)(g)	Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**09/08/1998**
Application Substantially Complete	**10/30/1998**
Construction Started	**08/14/1997**
Construction Completed	**12/31/1997**
Facility Placed into Operation	**12/31/1997**

Facility Cost

Facility Cost	**$165,100**
Doublewall fiberglass/steel tanks & flexible plastic piping	41,429
Spill & Overfill Prevention	
Spill containment basins	2,323
Sumps	6,543
Automatic shutoff valves	838
Oil/water separator	3,175
Overfill alarm	300
Leak Detection	
Automatic tank gauge	9,610
Turbine leak detectors	386
Monitoring wells	219
VOC Reduction	
Stage I/StageII vapor recovery with piping	2,651
Labor, material, misc. parts	97,626
Eligible Facility Cost	**$165,100**

The facility cost was greater than $50,000 but less than $500,000; therefore, **James T Woodburn, CPA** performed an accounting review accourding to Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost exceeds $50,000; therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 7

years. No gross annual revenues were associated with this facility.

ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	The Department has determined the percent allocable on the cost of a corrosion protected tank and piping system by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is $41,429 and the bare steel system is $17,987, the resulting portion of the eligible tank and piping cost allocable to pollution control is 57%. The applicant's cost for a tank gauge system is reduced to 90% of cost based on a determination by the Department that this is the portion properly allocable to pollution control since the device can serve other purposes, for example, inventory control.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. especially, Underground Storage Tank requirements under OAR Chapter 340, Division 150.

DEQ permits issued to facility:

Reviewers: Barbara J Anderson

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant	**Leathers Enterprises**
Application No.	**5073**
Facility Cost	**$211,533**
Percentage Allocable	**91%**
Useful Life	**7 years**

Pollution Control Facility: USTs
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a retail and commercial motor fuel outlet that is taking tax relief under taxpayer identification number 93-1130446. The applicant is the owner of the facility. The applicant's address is:

Leathers Enterprises
22300 SE Stark St
Gresham, OR 97030

Facility Identification

The certificate will identify the facility as:

Two doublewall fiberglass-clad steel tanks (one with two compartments), doublewall flexible plastic piping, automatic tank gauge system, overfill alarm, spill containment basins, monitoring wells, sumps, oil/water separator, automatic shutoff valves and Stage I vapor recovery and Stage II vapor recovery piping.

The facility is located at:

5020 Table Rock Rd
Central Point, OR 97501

Technical Information

To respond to Underground Storage Tank requirements under OAR 340-Division 150, the applicant installed: For corrosion protection – Doublewall fiberglass-clad steel tanks and doublewall flexible plastic piping. For spill and overfill prevention – Spill containment basins, sumps, oil/water separator, overfill alarm and automatic shutoff valves. For leak detection – Automatic tank gauge system, monitoring wells and turbine leak detectors. In addition, the following was installed to reduce air quality emissions. For VOC reduction – Stage I vapor recovery and Stage II vapor recovery piping.

Eligibility

ORS 468.155 (1)(a)	The **purpose** of this improvement, which includes installation of equipment and devices, is to prevent, control or reduce a substantial quantity of air and water pollution..
ORS 468.155 (1)(b)(A)	The disposal or elimination of or redesign to eliminate industrial waste and the use of treatment works for industrial waste as defined in ORS 468B.005
OAR-016-0025 (2)(g)	Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**09/08/1998**
Application Substantially Complete	**09/08/1998**
Construction Started	**01/04/1998**
Construction Completed	**03/10/1998**
Facility Placed into Operation	**03/10/1998**

Facility Cost

Facility Cost	**$211,533**
Corrosion Protection	
Doublewall fiberglass/steel tanks & piping	47,335
Spill & Overfill Prevention	
Spill containment basins	10,935
Sumps	3,800
Automatic shutoff valves	1,039
Overfill alarm	300
Leak Detection	
Automatic tank gauge	10,391
Monitoring wells	241
Oil/water separator	2,075
VOC reduction	
Stage I/Stage II vapor recovery w/piping	1,983
Labor, material, misc. parts	133,434
Eligible Facility Cost	**$211,533**

The facility cost was greater than $50,000 but less than $500,000; therefore, **James T. Woodburn, CPA** performed an accounting review accourding to Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost exceeds $50,000; therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 7 years. No gross annual revenues were associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	The Department has determined the percent allocable on the cost of a corrosion protected tank and piping system by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is $47,335 and the bare steel system is $28,542 the resulting portion of the eligible tank and piping cost allocable to pollution control is 61%. The applicant's cost for a tank gauge system is reduced to 90% of cost based on a determination by the Department that this is the portion properly allocable to pollution control since the device can serve other purposes, for example, inventory control.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. especially, Underground Storage Tank requirements under OAR Chapter 340, Division 150.

DEQ permits issued to facility:

Reviewers: Barbara J Anderson

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant	**Leathers Enterprises**
Application No.	**5074**
Facility Cost	**$260,913**
Percentage Allocable	**93%**
Useful Life	**7 years**

Pollution Control Facility: USTs
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a retail and commercial motor fuel outlet that is taking tax relief under taxpayer identification number 93-1130446. The applicant is the owner of the facility. The applicant's address is:

Leathers Enterprises
22300 SE Stark St
Gresham, OR 97030

Facility Identification

The certificate will identify the facility as:

Two doublewall fiberglass-clad steel tanks (one tank has two compartments), doublewall flexible plastic piping, automatic tank gauge system with overfill alarm, spill containment basins, turbine leak detectors, sumps, oil/water separator, automatic shutoff valves, Stage I vapor recovery, Stage II vapor recovery piping and monitoring wells.

The facility is located at:

801 W Third
Prineville, OR 97754

Technical Information

To respond to Underground Storage Tank requirements under OAR 340-Division 150, the applicant installed: For corrosion protection – Doublewall fiberglass-clad steel tanks and doublewall flexible plastic piping. For spill and overfill prevention – Spill containment basins, sumps, oil/water separator, overfill alarm and automatic shutoff valves. For leak detection – Automatic tank gauge system, monitoring wells and turbine leak detectors. In addition, the following was installed to reduce air quality emissions. For VOC reduction – Stage I vapor recovery and Stage II vapor recovery piping.

Eligibility

ORS 468.155 (1)(a)	The **purpose** of this improvement, which includes installation of equipment and devices, is to prevent, control or reduce a substantial quantity of air and water pollution..
ORS 468.155 (1)(b)(A)	The disposal or elimination of or redesign to eliminate industrial waste and the use of treatment works for industrial waste as defined in ORS 468B.005
OAR-016-0025 (2)(g)	Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**09/08/1998**
Application Substantially Complete	**09/29/1998**
Construction Started	**01/04/1998**
Construction Completed	**03/10/1998**
Facility Placed into Operation	**03/10/1998**

Facility Cost

Facility Cost	**$260,913**
Corrosion Protection	
Doublewall fiberglass/steel tanks & piping	43,663
Spill & Overfill Prevention	
Spill containment basins	1,936
Sumps	5,359
Automatic shutoff valves	908
Oil Water separator	2,699
Leak Detection	
Automatic tank gauge	8,940
Turbine leak detectors	245
VOC reduction	
Stage I/Stage II vapor recovery w/piping	1,758
Labor, material, misc. parts	195,405
Eligible Facility Cost	**$260,913**

The facility cost was greater than $50,000 but less than $500,000; therefore, **James T. Woodburn, CPA** performed an accounting review accourding to Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost exceeds $50,000; therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 7 years. No gross annual revenues were associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	The Department has determined the percent allocable on the cost of a corrosion protected tank and piping system by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is $43,663 and the bare steel system is $18,263 the resulting portion of the eligible tank and piping cost allocable to pollution control is 58%. The applicant's cost for a tank gauge system is reduced to 90% of cost based on a determination by the Department that this is the portion properly allocable to pollution control since the device can serve other purposes, for example, inventory control.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. especially, Underground Storage Tank requirements under OAR Chapter 340, Division 150.

DEQ permits issued to facility:

Reviewers: Barbara J Anderson

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant **Hyundai Semiconductor America, Inc.**
Application No. **5075**
Facility Cost **$ 11,052,894**
Percentage Allocable **100%**
Useful Life **10 years**

Pollution Control Facility: Air
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as operates a film substrate manufacturing facility taking tax relief under taxpayer identification number 94-3084354. The applicant is the owner of the facility. The applicant's address is:

Hyundai Semiconductor America, Inc.
1830 Willow Creek Circle
Eugene, Oregon 97402

Facility Identification

The certificate will identify the facility as:

A Volatile Organic Compound (VOC) Abatement System and an Acid Exhaust Abatement System

The facility is located at:

1830 Willow Creek Circle
Eugene, OR 97402

Technical Information

The claimed facility consists of two air treatment systems:

1. **Volatile Organic Compound (VOC) Abatement System.** The VOC abatement system is designed to treat solvent exhaust generated primarily by the Photolithography and Doping processes. The system cost includes all labor, equipment, and materials necessary to completely install two 45,000 cfm exhaust fans, a rotary concentrator, a thermal oxidizer, and a backup Granulated Activated Carbon (GAC) filter unit. Under normal operation a minimum of 97% of the VOC compounds are removed from the air stream and thermally decomposed to carbon dioxide and water.

   The Rotary Concentrator and Thermal Oxidizer, designed and constructed by Durr Industries, and the GAC filter, provided by Fox Engineering, are acceptable systems for controlling preventing VOC air pollution.

2. **Acid Exhaust Abatement System**. The acid exhaust abatement system is designed to treat acid exhaust generated by the Oxidation, Dry Etching, Wet Etching, Doping, Layering, Chemical Mechanical Planarization, and parts cleaning processes. The system cost includes all labor, equipment, and materials necessary to completely install the following components:
   i) One hundred three Point of Use (POU) scrubbers to satisfy the requirements of the tools that were installed;
   ii) Five 60,000 cfm acid exhaust wet scrubber units, each of which include an exhaust fan, a vertical packed scrubber, and two vertical circulation sump pumps; and
   iii) One scrubber caustic system consisting of a scrubber caustic day tank and five caustic metering pumps,

   The various combinations of Ecosys Corporation POU scrubbers used for the specific tools in conjunction with the Beverly Pacific acid exhaust wet scrubbers are acceptable systems for controlling air pollution.

Eligibility

ORS 468.155 (1)(a)(A) The **principal purpose** of this **new installation** of these two systems is to control a substantial quantity of air pollution.
This is required by Air Contaminant Discharge Permit (ACDP) #203531, issued 5/24/96, by Lane Regional Air Pollution Authority.

ORS 468.155 (1)(b)(B) The use of air cleaning devices as defined in ORS 468A.005.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**07/24/1998**
Application Substantially Complete	**10/16/1998**
Construction Started	**05/06/1996**
Construction Completed	**12/15/1996**
Facility Placed into Operation	**12/16/1996**

Facility Cost

Claimed Facility Cost	**$ 21,944,914**
Ineligible Costs (see table below)	**($ 10,892,020)**
Eligible Facility Cost	**$ 11,052,894**

Pricewaterhouse Coopers, LLP. provided the accounting review on behalf of the applicant. The costs for the installation of the two systems exceeds $500,000; therefore Maggie Vandehey performed an accounting review on behalf of the Department. Invoices and cost summaries substantiated the cost of the facility.

The claimed direct costs included itemized expenses from Meissner & Wurst, the general contractor, that are not eligible because: 1) they do not prevent, control, or reduce pollution; or 2) the primary and most important purpose was not pollution control but to create an internal environment that is safe and conducive to film substrate manufacturing. The allocated costs for this claimed facility were calculated as a percentage of all pollution control equipment claimed under applications numbered 5075, 5076 and 5077.

	Claimed	Ineligible Costs	Eligible Costs
DIRECT COSTS			
Fixed Asset Listing	**$4,024,968**	**0**	**$4,024,968**
CIP Invoices			
FAB Process Acid/Solvent Exhaust Duct		46,500	
FAB Process Acid Air Data Logging Equipment		287,689	
	$619,006	**$334,189**	**$284,817**
Meissner &Wurst (M&W) Invoice #28			
FAB Process Solvent/VOC Ductwork		2,476,682	
FAB Process Scrubbed Exhaust Ductwork		3,699,489	
	$10,308,839	**$6,176,161**	**$4,132,678**
M&W Change Orders			
COR 67, Revision to exhaust risers & laterals		3,608,346	
COR 555, Additional offsets and revisions to exhaust risers		67,548	
COR 127, Relocate acid exhaust duct from tower fan bay #12		21,882	
COR 134, Modify acid exhaust duct in CUB		122,166	
COR 520, Condensate drain to acid exhaust at scrubber		9,580	
COR 521, Provide acid exhaust condensate drain		20,419	
COR 667, Acid Exhaust modifications in tunnels		47,204	
	$4,324,997	**$3,897,145**	**$427,852**
DIRECT COSTS SUBTOTAL	**$ 19,277,810**	**$ 10,407,495**	**$ 8,870,315**
ALLOCATED COSTS			
Fixed Asset Listing - Land	$68,801	$60,564	$8,237
M&W Invoice #28 – Building & Structural	$1,926,025	$423,961	$1,502,064
M&W Change Orders – Emergency Diesel Generator	$26,265	$0	$26,265
M&W Electrical (1920 KVA)	$646,013	$0	$646,013
ALLOCATED COSTS SUBTOTAL	**$ 2,667,104**	**$ 484,525**	**$ 2,182,579**
TOTAL	**$ 21,944,914**	**$ 10,892,020**	**$11,052,894**

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost exceeds $50,000 and therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 10 years. No gross annual revenues were associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes, LRAPA and with EQC orders.
Synthetic Minor Air Contaminant Discharge Permit (LRAPA) # 203531, issued 5/24/96

Reviewers: Gordon Chun, P.E., SJO Consulting Engineers,Inc.
Lois L. Payne, P.E., SJO Consulting Engineers, Inc.
Waldemar Seton, Principal, SJO Consulting Engineers, Inc.
Maggie Vandehey, DEQ

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant	**Hyundai Semiconductor America, Inc.**
Application No.	**5076**
Facility Cost	**$2,184,755**
Percentage Allocable	**100%**
Useful Life	**10 years**

Pollution Control Facility: Water
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a film substrate manufacturing facility. The applicant is the owner of the facility and will be taking tax relief under taxpayer identification number 94-3084354. The applicant's address is:

Hyundai Semiconductor America, Inc.
1830 Willow Creek Circle
Eugene, Oregon 97402

Facility Identification

The certificate will identify the facility as:

A Stormwater Management Facility

The facility is located at:

1830 Willow Creek Circle
Eugene, OR 97402

Technical Information

Hyundai Semiconductor America's (HSA) The facility consists of interconnected systems designed to control pollution of water runoff into Willowcreek river and the groundwater table.

Chemical Loading Docks and Acess Road Spill Containment

Two 5,000 gallon basins were installed below the chemical loading docks to contain a spill by a liquid chemical delivery truck. Each basin will hold the full capacity of the largest truck that would make chemical deliveries to the site. One basin is designed to hold solvents and one is designed to hold acids and bases. The basins are physically separated to avoid cross contamination in the event of simultaneous spills. The separation consists of a concrete barrier. Each basin comes equipped with spill detection and emergency shutoff valves that automatically close when a truck is at the loading dock.

Outdoor Drain Water-Oil Separation and Containment System

Outdoor drain water-oil separation and containment systems are installed in the parking lot areas, along access roads, and in the diesel tank area of the central utilities building. This system is part of HSA's integrated Storm Water Management Plan (SWMP). The oil/water separators function as follows: The outlet pipe from the catch basin is at an elevation such that at a minimum level water is always present in the catch basin. The outlet pipe curves downward into the catch basin so that the surface of the liquid is above the entrance to the pipe. Since hydrocarbons tend to float on water, the oil/grease always stays in the catch basin while the water runs out underneath.

Spill Containment Pond
The truck access road and parking lot storm drains are routed to a serpentine shaped containment pond. The system capacity (pond and drain piping) will contain the volume of the largest tanker truck brought on site. The pond capacity is 20,000 gallons. The pond is lined with a geo-textile covered with rock, soil, and plants. Piping is installed to connect the containment pond to the storm-water treatment marsh and two valves control the flow. The drain valve is normally closed and the other is normally open allowing storm-water into the storm-water marsh. A series of berms within the pond retained the storm-water long enough for the valve to be shut off during an emergency.

Storm-Water Treatment Marsh
The marsh consists of two primary components, a forebay, and an extended detention marsh. The forebay provides pretreatment for all storm-water runoff entering the treatment facility and provides easy access for cleaning. The forebay is rip-rap lined to reduce inlet velocities and minimize bottom erosion. Water is discharged from the forebay to the treatment marsh over a broad weir structure that maintains a three-foot pool of water in the forebay.

The treatment marsh is a constructed shallow marsh system with a flow path designed to extend residence time within the system. The marsh system consists of a low flow marsh, extended detention areas, and a micro pool. The normal depth in the low and high flow marshes varies from zero– to eighteen– inches suitable for supporting the growth of emergent wetland plants. The facility also includes areas for extended detention that will only be wetted during storm events. The micropool is the deepest area of the marsh system and is designed to maintain a permanent pool throughout the year. It is located near the outlet structure and serves as a sediment basin to prevent premature silting-in and/or clogging of the outlet weir. The outlet structure is a composite weir consisting of a model broad crested weir and a low flow 120° V-notch weir. The structure is designed to provide adequate detention for water quality treatment. Water then flows through a valve to either a bypass normally connected to a tip-up in the North-South ditch or into a grassy swale that directs water into the East-West ditch. As required by HSA's permit, flows from the developed and undeveloped portions of the site are continuously monitored through a flume in the East-West ditch.
The effectiveness of the treatment provided by the marsh is expected to improve over the first three years and beyond. A detailed maintenance plan and schedule has been developed to ensure that the marsh operates as designed. If sediments are routinely removed from the forebay, the facility is expected to last about 50 years before major sediment cleanout is needed in the shallow marsh.

Eligibility

ORS 468.155 (1)(a)	The **principal purpose** of this **new land, excavation, installation, and associated devices** is to prevent, control or reduce a substantial quantity of water pollution. Required by NPDES Stormwater Discharge Permit 1200-L, issued 6/27/96, by Lane Regional Air Pollution Authority.
ORS 468.155 (1)(b)(A)	The disposal or elimination of or redesign to eliminate industrial waste and the use of treatment works for industrial waste as defined in ORS 468B.005
OAR-016-0025 (2)(g)	Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**09/08/1998**
Application Substantially Complete	**11/03/1998**
Construction Started	**09/18/1996**
Construction Completed	**03/16/1998**
Facility Placed into Operation	**03/16/1998**

Facility Cost

Claimed Facility Cost	**$ 2,698,204**
Ineligible Costs (see table below)	**($ 513,449)**
Eligible Facility Cost	**$2,184,755**

The costs for the installation of the two systems exceeds $500,000; therefore Maggie Vandehey performed an accounting review on behalf of the Department. Pricewaterhouse Coopers, LLP. provided the accounting review on behalf of the applicant. Invoices and cost summaries substantiated the cost of the facility.

The direct cost for groundwater monitoring is required by the applicant's wetlands permit (401) and is not stormwater related; therefore it is not eligible because it does "not prevent, control, or reduce pollution." The allocated costs for this claimed facility were calculated as a percentage of all pollution control equipment claimed under applications numbered 5075, 5076 and 5077.

	Claimed	Ineligible Costs	Eligible Costs
DIRECT COSTS			
Fixed Asset Listing	$1,407		$1,407
CIP Invoices - Groundwater Monitoring	$451,075	$304,055	$147,020
M&W Invoice #28	$480,000		$480,000
M&W Change Orders	$1,457,848		$1,457,848
DIRECT COSTS SUBTOTAL	**$ 2,390,330**	**$ 304,055**	**$ 2,086,275**
ALLOCATED COSTS			
Fixed Asset Listing – Land	$98,480		$98,480
M&W Invoice #28 – Building & Structural	$238,815	$238,815	$0
M&W Change Orders - Emergency Diesel Generator	$2,202	$2,202	$0
M&W Electrical (0 KVA)	$58,326	$58,326	$0
ALLOCATED COSTS SUBTOTAL		**$ 209,394**	**$ 98,480**
TOTAL	**$ 2,698,204**	**$ 513,449**	**$2,184,755**

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost exceeds $50,000 and therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 10 years. No gross annual revenues were associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The applicant states that the facility is in compliance with Department rules and statutes and with EQC orders. The following DEQ permits have been issued to the facility:

Wastewater Discharge Permit H-300E, issued 6/18/97
NPDES Stormwater Discharge Permit 1200-L, issued 6/27/96
Stormwater Quality Certificate 401, issued 11/1/95

Reviewers: Lois L. Payne, P.E., SJO Consulting Engineers, Inc.
Dennis Cartier, Associate, SJO Consulting Engineers, Inc.
Waldemar Seton, Principal, SJO Consulting Engineers, Inc.
Maggie Vandehey, DEQ

Tax Credit Review Report

07/28/98 10:09 AM

Director's Recommendation: **APPROVE**

Applicant **Hyundai Semiconductor America, Inc.**
Application No. **5077**
Facility Cost **$5,381,770**
Percentage Allocable **100%**
Useful Life **10 years**

Pollution Control Facility: Water
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating a semiconductor manufacturing facility taking tax relief under taxpayer identification number 77-0408168. The applicant is the owner of the facility. The applicant's address is:

Hyundai Semiconductor America, Inc.
1830 Willow Creek Circle
Eugene, Oregon 97402

Facility Identification

The certificate will identify the facility as:

A Hydrofluoric Acid (HF) Batch Neutralization System and an Acid Waste Neutralization (AWN) System

The facility is located at:

1830 Willow Creek Circle
Eugene, OR 97402

Technical Information

The facility consists of two pretreatment waste water treatment systems:

Hydrofluoric Acid (HF) Batch Neutralization System
The WTS Batch Master (BM-6000) provides batch treatment of hydrofluoric acid and metal bearing waste waters by pH adjustment and fluoride precipitation, followed by precipitate flocculation and clarification. System components include:

1. **HF Flow Equalization Tank**
   The HF wastewater flows from the fabrication plant to this 11,000 gallon tank which is required to smooth out fluctuations in the fluoride concentration prior to treatment. The HF wastewater is then pumped into the BM reactor.

2. **WTS Batch Master (BM-6000)**
   A 6,000 gallon stirred reactor is utilized for pH adjustment of the influent using NaOH and for precipitation of fluoride using calcium chloride, which forms a calcium fluoride precipitate. An ionic polymer is added to the vessel to coagulate the precipitate, which promotes rapid settling. The contents of the batch reactor are transferred to the Sludge Aging Tank using dual air operated diaphragm pumps.

3. **Sludge Aging Tank**
   The sludge dewatering system is designed to allow the calcium fluoride slurry to settle. The settling/aging process allows the slurry to further thicken to 2-4% solids prior to processing by the filter press cycle. Clear supernatant is pumped to the Acid Waste Neutralization System. After the filter press cycle, the CaF2 cake is placed into a dumpster and subsequently hauled from the facility by a waste contractor. The water pressed from the filter is drained into the Acid Waste Neutralization System or returned to the Batch Master tank.

Acid Waste Neutralization (AWN) System
The AWN is a multiple stage pH neutralization system utilizing three stirred tank reactors. The reactors are connected in series, and sodium hydroxide or sulfuric acid is added to neutralize acidic or alkaline wastewater. Influent sources are:

1) DI Regen Tank
2) The treated waste from the HF acid treatment system
3) Process effluent from the fabrication plant.

System components include:

1. **Three Stirred Tank Reactors**
   The first tank receives the waste flows and the automatic controls add neutralizing chemicals. The waste then overflows into the second and third tanks and the neutralization proceeds in stages to reach a neutral pH suitable for discharge. Each tank holds about 17,000 gallons providing a minimum of 10 minutes retention time.
2. **DI Regen Tank**
   This tank provides 50,000 gallons of surge capacity to prevent these very intermittent flows from disrupting the neutralization process.
3. **Capacity Holding Discharge Tank**
   The 32,000 tank acts as a collection point for the AWN flow plus other wastes not requiring neutralization prior to discharge to the City sewer system.
4. **U.S. Filter/WTS log-linear pH control**
   This functions to automatically add the neutralizing chemicals.

Effluent from the Capacity Holding Discharge Tank is pumped to the sanitary sewer by three of four centrifugal pumps.

Eligibility

ORS 468.155 (1)(a) The **principal purpose** of the **new equipment** is to prevent or control a substantial quantity of water pollution.
Required by Wastewater Discharge Permit H-300E, issued 6/18/97, by Public Works, Wastewater Division, City of Eugene.

ORS 468.155 The disposal or elimination of or redesign to eliminate industrial waste and the

(1)(b)(A) use of treatment works for industrial waste as defined in ORS 468B.005
OAR-016-0025 Installation or construction of facilities which will be used to detect, deter, or
(2)(g) prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**09/08/1998**
Application Substantially Complete	**11/03/1998**
Construction Started	**12/22/1995**
Construction Completed	**03/16/1998**
Facility Placed into Operation	**03/16/1998**

Facility Cost

Claimed Facility Cost	**$ 11,731,174**
Ineligible Costs (see table below)	**($ 6,349,404)**
Eligible Facility Cost	**$ 5,381,770**

The costs for the installation of the two systems exceeds $500,000; therefore Maggie Vandehey performed an accounting review on behalf of the Department. **Pricewaterhouse Coopers, LLP.** provided the accounting review on behalf of the applicant. Invoices and cost summaries substantiated the cost of the facility.

The claimed direct costs included itemized expenses from Meissner & Wurst, the general contractor, that are not eligible because: 1) they do not prevent, control, or reduce pollution; or 2) the primary and most important purpose was not pollution control but to create an internal environment that is safe and conducive to film substrate manufacturing. The allocated costs for this claimed facility were calculated as a percentage of all pollution control equipment claimed under applications numbered 5075, 5076 and 5077.

	Claimed	Ineligible Costs		Eligible Costs
DIRECT COSTS				
Invoices	**$100,316**			**$100,316**
Meissner &Wurst (M&W) Invoice #28	**$5,937,762**		**$3,481,762**	**$2,456,000**
FAB Process Piping Routing to CUB		661,540		
FAB Process Solvent Mixing		744,584		
FAB Process HF and H_2SO4 Piping		1,477,980		
FAB Process Waste Drains		597,658		
M&W Change Orders	**$3,767,378**		**$2,714,661**	**1,052,717**
COR 516, Pipe Racks		13,478		
COR 260, FAB Safety – Double Containment Piping		85,188		
COR 504, FAB Safety – Double Containment Piping		10,508		
COR 19, FAB Waste Piping Design Changes		2,208,064		
COR 48, FAB Safety – Double Containment Piping		397,423		
DIRECT COSTS SUBTOTAL	**$ 9,805,456**		**$ 6,196,423**	**$ 3,609,033**
ALLOCATED COSTS				
Fixed Asset Listing – Land	$34,995		$29,385	$5,610
M&W Invoice #28 – Building & Structural	$1,642,428			$1,642,428
M&W Change Orders – Emergency Diesel Generator	$9,035		$6,300	$,2,735
M&W Electrical (200 KVA)	$239,260		$117,296	$121,964
ALLOCATED COSTS SUBTOTAL	**$ 1,925,718**		**$ 152,981**	**$ 1,772,737**
TOTAL	**$ 11,731,174**		**$ 6,349,404**	**$ 5,381,770**

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost exceeds $50,000 and therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 10 years. No gross annual revenues were associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The applicant states the facility is in compliance with Department rules and statutes and with EQC orders. The following DEQ permits have been issued to the facility:
Wastewater Discharge Permit H-300E, issued 6/18/97

Reviewers: Lois L. Payne, P.E., SJO Consulting Engineers, Inc.
Waldemar Seton, Principal, SJO Consulting Engineers, Inc.
Maggie Vandehey, DEQ
Elliot Zais, DEQ

Tax Credit Review Report

EQC 12/11/1998

Pollution Control Facility: USTs
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Director's Recommendation: **APPROVE**

Applicant	**Miller's Sanitary Service, Inc.**
Application No.	**5078**
Facility Cost	**$42,742**
Percentage Allocable	**100%**
Useful Life	**7 years**

Applicant Identification

The applicant is a C corporation operating as a solid waste hauler facility that is taking tax relief under taxpayer identification number 93-0583185. The applicant is the owner of the facility. The applicant's address is:

Miller's Sanitary Service, Inc.
5150 SW Alger Avenue
Beaverton, OR 97005

Facility Identification

The certificate will identify the facility as:

One doublewall fiberglass lined steel aboveground tank (with two compartments) with overfill prevention and interstitial leak detection equipment

The facility is located at:

5150 SW Alger Avenue
Beaverton, OR 97005

Technical Information

To comply with Underground Storage Tank requirements under OAR 340-Division 150, and the Oregon Uniform Fire Code, the applicant installed: For corrosion protection – Doublewall fiberglass lined steel aboveground tank. For spill and overfill prevention – Overfill prevention equipment. For leak detection – Interstitial leak detection equipment.

Eligibility

ORS 468.155 (1)(a)	The **purpose** of this improvement, which includes installation of equipment and devices, is to prevent, control or reduce a substantial quantity of air and water pollution..
ORS 468.155 (1)(b)(A)	The disposal or elimination of or redesign to eliminate industrial waste and the use of treatment works for industrial waste as defined in ORS 468B.005
OAR-016-0025 (2)(g)	Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**09/11/1998**
Application Substantially Complete	**10/02/1998**
Construction Started	**08/25/1997**
Construction Completed	**10/06/1997**
Facility Placed into Operation	**09/30/1997**

Facility Cost

Facility Cost	**$42,742**
Corrosion Protection	
Doublewall fiberglass lined aboveground tank	12,313
Spill & Overfill Protection	
Spill prevention	1,309
Leak Detection	
Interstitial leak detectors	42
Labor, material, misc. parts	29,078
Eligible Facility Cost	**$42,742**

Invoices or canceled checks substantiated the cost of the facility. The facility cost does not exceed $50,000; therefore, an independent accounting review was not required.

Facility Cost Allocable to Pollution Control

According to ORS 468.190 (3), the facility cost does not exceed $50,000; therefore, the only factor used to determine the percentage of the facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. The percentage of time this facility is used for pollution control is 100%.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 7 years. No gross annual revenues were associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. especially, Underground Storage Tank requirements under OAR Chapter 340, Division 150.

DEQ permits issued to facility:

Reviewers: Barbara J Anderson

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant	**Delphia Oil, Inc.**
Application No.	**5079**
Facility Cost	**$74,921**
Percentage Allocable	**98%**
Useful Life	**7 years**

Pollution Control Facility: USTs
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as sale of fuel for cars, trucks, etc. that is taking tax relief under taxpayer identification number 93-0747837. The applicant is the owner of the facility. The applicant's address is:

Delphia Oil, Inc.
65 Portway
Astoria, OR 97103

Facility Identification

The certificate will identify the facility as:

2 OPW #1 spill containment units; 2 CNI spill containment units; 2 OPW 61-50 overfill prevention valves and 2 DS2316 underpump spill containment basins

The facility is located at:

30 SE Harbor
Warrenton, OR

Technical Information

Installation for corrosion protection – Epoxy tank lining and impressed current cathodic protection on existing steel underground storage tanks and doublewall fl4exible plastic piping. For spill and overfill prevention – Spill containment basins, sumps, automatic shutoff valves and an overfill alarm. For leak detection – Automatic tank gauge system and turbine leak detectors. For VOC reduction a Stage I vapor recovery system to reduce air quality emissions was installed.

Eligibility

ORS 468.155 (1)(a) The **purpose** of this **improvement which includes equipment and** is to prevent, control or reduce a substantial quantity of air and water pollution.

ORS 468.155 The disposal or elimination of or redesign to eliminate industrial waste and the

(1)(b)(A) use of treatment works for industrial waste as defined in ORS 468B.005
OAR-016-0025 (2)(g) Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**09/22/1998**
Application Substantially Complete	**10/14/1998**
Construction Started	**08/01/1996**
Construction Completed	**11/01/1996**
Facility Placed into Operation	**12/01/1996**

Facility Cost

Facility Cost	**$74,921**
Corrosion Protection	
Doublewall flexible plastic piping	3,409
Epoxy tank lining	12,150
Cathodic protection	7,200
Spill & Overfill Prevention	
Spill containment basins	837
Sumps	4,500
Automatic shutoff valves	1,400
Leak Detection	
Tank Gauge system w/alarm	13,069
Turbine leak detectors	1,000
VOC Reduction	
Stage I vapor recovery	350
Labor, material, Misc. parts	31,006
Eligible Facility Cost	**$74,921**

The facility cost was greater than $50,000 but less than $500,000; therefore, **Stephen C Allen, CPA** performed an accounting review accourding to Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost exceeds $50,000; therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 7 years. No gross annual revenues were

	associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	The Department concludes that the eligible facility cost for the project is $74,921. This represents a net decrease of $22,730 from the applicant's claimed cost of $97,651 due to a determination by the Department that the cost of a site assessment, $4,067, and the product dispensers $18,663, claimed by the applicant are not eligible pursuant to the definition of a pollution control facility in ORS 468.155. The Department has further determined the percent allocable on the cost of a corrosion protected piping system by using a formula based on the difference in cost between the protected piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is $3,409 and the bare steel system is $180, the resulting portion of the eligible piping cost allocable to pollution control is 95%. The applicant's cost for a tank gauge system is reduced to 90% of cost based on a determination by the Department that this is the portion properly allocable to pollution control since the device can serve other purposes, for example, inventory control.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. especially, Underground Storage Tank requirements under OAR Chapter 340, Division 150.

DEQ permits issued to facility:

Reviewers: Barbara J Anderson

Tax Credit Review Report

EQC 12/11/1998

Pollution Control Facility: Solid Waste
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Director's Recommendation:	**APPROVE**
Applicant	**United Disposal Service Inc.**
Application No.	**5083**
Facility Cost	**$14,959**
Percentage Allocable	**100%**
Useful Life	**10 years**

Applicant Identification

The applicant is a C corporation operating as a recycle facility that is taking tax relief under taxpayer identification number 93-0625022. The applicant is the owner of the facility. The applicant's address is:

United Disposal Service Inc..
2215 N Front Street
Woodburn, OR 97071

Facility Identification

The certificate will identify the facility as:

Five 30-yd SC style drop boxes, serial numbers 10585 thru 10589.

The facility is located at:

2215 N Front Street
Woodburn, OR 97071

Technical Information

These drop boxes are used for the collection of recyclable material that is generated from commercial customers. These containers a service-area-wide recycling collection program offered by United Disposal for its collection customers.

Eligibility

ORS 468.155 (1)(a) The sole **purpose** of this **new equipment** is to prevent, control, or reduce a substantial quantity of solid waste. These drop boxes are painted a different color than similar solid waste collection equipment and are used exclusively for the collection of recyclable material.

ORS 468.155 (1)(b)(D) The use of a material recovery process which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.005.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**09/15/1998**
Application Substantially Complete	**10/08/1998**
Construction Started	**05/28/1998**
Construction Completed	**06/24/1998**
Facility Placed into Operation	**06/30/1998**

Facility Cost

Facility Cost		**$14,959**
Salvage Value	$	-
Government Grants	$	-
Other Tax Credits	$	-
Insignificant Contribution ORS 468.155(2)(d)	$	-
Ineligible Costs	$	-
Eligible Facility Cost		**$14,959**

Invoices or canceled checks substantiated the cost of the facility. The facility cost does not exceed $50,000; therefore, an independent accounting review was not required.

Facility Cost Allocable to Pollution Control

The facility cost does not exceed $50,000. Therefore, according to ORS 468.190 (3), the only factor used to determine the percentage of the facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. The percentage of time this facility is used for pollution control is 100%.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 10 years. There was no calculation of return on investment.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.

There are no DEQ permits issued to this facility:

Reviewers: William R Bree

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant **Capitol Recycling & Disposal Co.**
Application No. **5084**
Facility Cost **$16,910**
Percentage Allocable **100%**
Useful Life **10 years**

Pollution Control Facility: Solid Waste
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a recycling facility that is taking tax relief under taxpayer identification number 93-1197641. The applicant is the owner of the facility. The applicant's address is:

Capitol Recycling & Disposal Co.
1890 16th Street SE
Salem, OR 97302

Facility Identification

The certificate will identify the facility as:

Twenty 4-yd front load expanded metal cardboard recycling containers with one piece steel lid locks and bolt on casters, serial numbers 139779 thru 139798. Twenty 6-yd front load expanded metal cardboard recycling containers with no lids and no casters, without serial numbers.

The facility is located at:

1890 16th Street SE
Salem, OR 97302

Technical Information

These containers specially designed containers are use for collection of corrugated cardboard from commercial collection service customers. The containers and collection service are part of a service-area-wide recycling program provided by the applicant.

Eligibility

ORS 468.155 (1)(a) The sole **purpose** of this **equipment** is to prevent, control or reduce a substantial quantity of solid waste. These containers are designed to be used for the collection and storage of corrugated cardboard. They are provide by the collection company and are used by the customers solely for this purpose.

ORS 468.155 (1)(b)(D) The use of a material recovery process which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.005.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**09/28/1998**
Application Substantially Complete	**10/08/1998**
Construction Started	**07/30/1996**
Construction Completed	**08/28/1996**
Facility Placed into Operation	**09/10/1996**

Facility Cost

Facility Cost	**$16,909.60**
Salvage Value	$ -
Government Grants	$ -
Other Tax Credits	$ -
Insignificant Contribution ORS 468.155(2)(d)	$ -
Ineligible Costs	$ -
Eligible Facility Cost	**$16,909.60**

Invoices and canceled checks substantiated the cost of the facility. The facility cost does not exceed $50,000; therefore, an independent accounting review was not required.

Facility Cost Allocable to Pollution Control

According to ORS 468.190 (3), the facility cost does not exceed $50,000; therefore, the only factor used to determine the percentage of the facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. The percentage of time this facility is used for pollution control is 100%.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 10 years. A return on investment calculation was not done.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.

There are no DEQ permits issued to this facility:

Reviewers: William R Bree

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant	**David L. Towry, Sr.**
Application No.	**5085**
Facility Cost	**$95,300**
Percentage Allocable	**99%**
Useful Life	**7 years**

Pollution Control Facility: USTs
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a retail sales facility that is taking tax relief under taxpayer identification number 540-58-3599. The applicant is the owner of the facility. The applicant's address is:

David L. Towry, Sr.
530 Center Street, Ste 675
Salem, OR 97301

Facility Identification

The certificate will identify the facility as:

Epoxy lining in three steel underground tanks, flexible plastic piping, spill containment basins, automatic tank gauge system, overfill alarm, turbine leak detectors, sumps, oil/water separator and automatic shutoff valves.

The facility is located at:

522 Main Street
Aumsville, OR 97325

Technical Information

To respond to Underground Storage Tank requirements under OAR 340-Division 150, the applicant installed: For corrosion protection – Epoxy tank lining and doublewall flexible plastic piping. For spill and overfill prevention – Spill containment basins, sumps, oil/water separator, automatic shutoff valves and an overfill alarm. For leak detection - Automatic tank gauge system and turbine leak detectors.

Eligibility

ORS 468.155 (1)(a) The **purpose** of these improvements, which includes installation of equipment and devices is to prevent, control or reduce a substantial quantity of air and water pollution.

ORS 468.155 (1)(b)(A)	The disposal or elimination of or redesign to eliminate industrial waste and the use of treatment works for industrial waste as defined in ORS 468B.005
OAR-016-0025 (2)(g)	Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**09/28/1998**
Application Substantially Complete	**10/28/1998**
Construction Started	
Construction Completed	**06/15/1998**
Facility Placed into Operation	**06/15/1998**

Facility Cost

Facility Cost	**$95,300**
Corrosion Protection	
Flexible plastic piping	3,900
Epoxy tank lining	12,397
Spill & Overfill Prevention	
Spill containment basins	1,698
Sumps	2,300
Automatic shutoff valves	1,200
Oil/water separator	1,000
Overfill alarm	598
Leak Detection	
Tank gauge system	6,500
Turbine leak detectors	2,898
Labor, material, misc. parts	62,809
Eligible Facility Cost	**$95,300**

The facility cost was greater than $50,000 but less than $500,000; therefore, **Name of Applicant's Accounting firm** performed an accounting review accourding to Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost exceeds $50,000; therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 7 years. No gross annual revenues were associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.

ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	The Department has determined the percent allocable on the cost of a corrosion protected tank and piping system by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is $3,900 and the bare steel system is $410 the resulting portion of the eligible tank and piping cost allocable to pollution control is 89%. The applicant's cost for a tank gauge system is reduced to 90% of cost based on a determination by the Department that this is the portion properly allocable to pollution control since the device can serve other purposes, for example, inventory

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. especially, Underground Storage Tank requirements under OAR Chapter 340, Division 150.

DEQ permits issued to facility:

Reviewers: Barbara J Anderson

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant **The Jerry Brown Company, Inc.**
Application No. **5087**
Facility Cost **$113,695**
Percentage Allocable **99%**
Useful Life **7 years**

Pollution Control Facility: USTs
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is an S corporation operating as a retail fuel facility that is taking tax relief under taxpayer identification number . The applicant is the owner of the facility. The applicant's address is:

The Jerry Brown Company, Inc.
PO Box 337
Junction City, OR 97448

Facility Identification

The certificate will identify the facility as:

Epoxy lining and impressed current cathodic protection on two steel underground tanks, doublewall flexible plastic piping, spill containment basins, automatic tank gauge system, turbine leak detectors, sumps, monitoring well and automatic shutoff valves.

The facility is located at:

93244 Hwy 99
Junction City, OR 97448

Technical Information

To respond to Underground Storage Tank requirements under OAR 340-Division 150, the applicant installed: For corrosion protection – Epoxy tank lining, cathodic protection and doublewall flexible plastic piping. For spill and overfill prevention – Spill containment basins, sumps, oil/water separator, automatic shutoff valves and an overfill alarm. For leak detection - Automatic tank gauge system, monitoring well, and turbine leak detectors.

Eligibility

ORS 468.155 (1)(a) The **purpose** of these improvements, which include installation of equipment and devices, is to prevent, control or reduce a substantial quantity of air and

water pollution.

ORS 468.155 (1)(b)(A) The disposal or elimination of or redesign to eliminate industrial waste and the use of treatment works for industrial waste as defined in ORS 468B.005

OAR-016-0025 (2)(g) Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**09/29/1998**
Application Substantially Complete	**10/28/1998**
Construction Started	**11/13/1997**
Construction Completed	**12/05/1997**
Facility Placed into Operation	**12/05/1997**

Facility Cost

Facility Cost	**$113,695**
Corrosion Protection	
Flexible plastic piping	2,915
Epoxy tank lining	12,341
Cathodic Protection	11,551
Spill & Overfill Prevention	
Spill containment basins	927
Sumps	2,421
Automatic Shutoff valves	1,646
Leak Detectors	
Tank gauge system	6,818
Turbine leak detectors	3,902
Monitoring wells	191
Labor, material, misc. parts	70,984
Eligible Facility Cost	**$113,695**

The facility cost was greater than $50,000 but less than $500,000; A request for waiver of Accountant review was submitted and accepted by DEQ.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost exceeds $50,000; therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is years. No gross annual revenues were associated with this facility.

ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	The Department has determined the percent allocable on the cost of a corrosion protected piping system by using a formula based on the difference in cost between the protected piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is $2,915 and the bare steel system is $874, the resulting portion of the eligible piping cost allocable to pollution control is 70%. The applicant's cost for a tank gauge system is reduced to 90% of cost based on a determination by the Department that this is the portion properly allocable to pollution control since the device can serve other purposes, for example, inventory control.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. especially, Underground Storage Tank requirements under OAR Chapter 340, Division 150.

DEQ permits issued to facility:

Reviewers: Barbara J Anderson

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant	**Weldon's Enterprises, Inc.**
Application No.	**5088**
Facility Cost	**$3,900**
Percentage Allocable	**100%**
Useful Life	**3 years**

Pollution Control Facility: Water
Final Certification
ORS 468A.095 -- 468A.098
OAR 340-016-0100 -- 340-016-0150

Applicant Identification

The applicant is an S corporation operating as a dry cleaner. The applicant is the owner of the facility and will be taking tax relief under taxpayer identification number 93-0751682. The applicant's address is:

Weldon's Enterprises, Inc.
711 Stewart Avenue
Medford, OR 97501

Facility Identification

The certificate will identify the facility as:

Five pan placed under a perc dry cleaning machine to contain any spills of solvent.

The facility is located at:

711 Stewart Avenue
Medford, OR 97501

Technical Information

Five containment pan (no model or serial number) were installed under the dry cleaning machines to contain any solvent drips that otherwise could have leached through the concrete and cause contamination.

Eligibility

ORS 468.155 (1)(a)	The **principal purpose** of this **new installation and equipment** is to prevent, control or reduce a substantial quantity of water pollution. Beginning June 30, 1998, the waste minimization requirements dry cleaning facilities (ORS 465.505 (b) and (f)) prohibits the discharge of solvent-contaminated discharge to any sanitary sewer, septic system or waters of the State.
ORS 468.155 (1)(b)(A)	The disposal or elimination of or redesign to eliminate industrial waste and the use of treatment works for industrial waste as defined in ORS 468B.005.
OAR-016-0025 (2)(g)	Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**10/15/1998**
Application Substantially Complete	**10/8/1998**
Construction Started	**6/22/1998**
Construction Completed	**6/22/1998**
Facility Placed into Operation	**6/22/1998**

Facility Cost

Facility Cost		**$4,400**
Salvage Value		
Government Grants		
Other Tax Credits		
Insignificant Contribution (ORS 468.155(2)(d)		
	Loss of Production	-$ 500
Ineligible Costs		
Eligible Facility Cost		**$3,900**

Invoices or canceled checks substantiated the cost of the facility. The facility cost does not exceed $50,000; therefore, an independent accounting review was not required. The Department subtracted the amount claimed for loss of production time while the machines were down during the installation of the pans.

Facility Cost Allocable to Pollution Control

According to ORS 468.190 (3), the facility cost does not exceed $50,000; therefore, the only factor used to determine the percentage of the facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. The percentage of time this facility is used for pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.

Reviewers: Maggie Vandehey

Tax Credit Review Report

EQC 12/11/1998

Pollution Control Facility: Solid Waste
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Director's Recommendation: **APPROVE**

Applicant	**United Disposal Services, Inc.**
Application No.	**5089**
Facility Cost	**$27,254**
Percentage Allocable	**100%**
Useful Life	**10 years**

Applicant Identification

The applicant is a C corporation operating as a recycling facility that is taking tax relief under taxpayer identification number 93-0625022. The applicant is the owner of the facility. The applicant's address is:

United Disposal Services, Inc.
2215 N Front Street
Woodburn, OR 97071

Facility Identification

The certificate will identify the facility as:

Five 20-yd SC style drop boxes, serial nos: 10605 through 10609 & five 30-yd SC style drop boxes, serial nos: 10590 through 10594.

The facility is located at:

2215 N Front Street
Woodburn, OR 97071

Technical Information

These drop boxes are used for the storage and collection of recyclable materials generated by commercial and industrial service customers. These drop boxes are part of a service-area-wide recycling service program offered by United Disposal for its collection customers.

Eligibility

ORS 468.155 (1)(a) The **sole purpose** of this **new equipment** is to prevent, control or reduce a substantial quantity of solid waste. The containers are painted a different color than similar solid waste collection containers and are used solely for recycling.

ORS 468.155 (1)(b)(D) The use of a material recovery process which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.005.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**10/01/1998**
Application Substantially Complete	**10/09/1998**
Construction Started	**06/15/1998**
Construction Completed	**06/24/1998**
Facility Placed into Operation	**07/05/1998**

Facility Cost

Facility Cost		**$27,254**
Salvage Value	$	-
Government Grants	$	-
Other Tax Credits	$	-
Insignificant Contribution ORS 468.155(2)(d)	$	-
Eligible Facility Cost		**$27,254**

The facility cost does not exceed $50,000. An independent accounting review was not required. However, invoices or canceled checks substantiated the cost of the facility.

Facility Cost Allocable to Pollution Control

The facility cost does not exceed $50,000. According to ORS 468.190 (3), the only factor used in determining the percentage allocable to pollution control is the percentage of time the facility is used for pollution control. Therefore, the percentage of the facility cost allocable to pollution control is **100%**.

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes and with EQC orders.

DEQ permits issued to facility:

Reviewers: William R Bree

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant	**Jake's Truck Stop**
Application No.	**5092**
Facility Cost	**$86,521**
Percentage Allocable	**85%**
Useful Life	**7 years**

Pollution Control Facility: USTs
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a retail gas station that is taking tax relief under taxpayer identification number 93-0564432. The applicant is the owner of the facility. The applicant's address is:

Jake's Truck Stop
61260 S Hwy 97
Bend, OR 97702

Facility Identification

The certificate will identify the facility as:

Two doublewall fiberglass clad steel underground storage tanks, doublewall flexible plastic piping, spill containment basins, automatic tank gauge system, turbine leak detectors, sumps and automatic shutoff valves

The facility is located at:

61260 S Hwy 97
Bend, OR 97702

Technical Information

To respond to Underground Storage Tank requirements under OAR 340-Division 150, the applicant installed:

1) For corrosion protection – Fiberglass clad steel tanks and doublewall flexible plastic piping.
2) For spill and overfill prevention - Spill containment basins, sumps and automatic shutoff valves.
3) For leak detection - Automatic tank gauge system and turbine leak detectors.

Eligibility

ORS 468.155 (1)(a) The **principal purpose** of this new improvement which includes installation of equipment and devices is to prevent, control or reduce a substantial quantity of air and water pollution.

ORS 468.155 (1)(b)(A) The disposal or elimination of or redesign to eliminate industrial waste and the use of treatment works for industrial waste as defined in ORS 468B5

OAR-016-0025 Installation or construction of facilities which will be used to detect, deter, or

(2)(g) prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**10/9/98**
Application Substantially Complete	**10/27/1998**
Construction Started	**4/8/97**
Construction Completed	**5/25/97**
Facility Placed into Operation	**5/26/97**

Facility Cost

Facility Cost	**$86,521**
Corrosion Protection:	
Doublewall fiberglass clad steel tanks & piping	$26,834
Spill & Overfill Prevention	
Spill containment basins	450
Sumps	2,674
Automatic shutoff valves	1,160
Leak Detection	
Tank gauge system	5,880
Turbine leak detectors	545
Labor, material, misc. parts	48,978
Eligible Facility Cost	**$86,521**

The facility cost was greater than $50,000 but less than $500,000. Therefore, **Joseph P Fischer** performed an accounting review according to Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

The facility cost exceeds $50,000. According to ORS 468.190 (1), the factors listed below were considered in determining the percentage of the facility cost allocable to pollution control. The percentage of the facility cost allocable to pollution control is **100%**.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 7 years. No gross annual revenues were associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	The Department has determined the percent allocable on the cost of a corrosion protected tank and piping system by suing a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is $26,834 and the

bare steel system is $12,152, the resulting portion of the eligible tank and piping cost allocable to pollution control is 55%. The applicant's cost for a tank gauge system is reduced to 90% of cost based on a determination by the Department that this is the portion properly allocable to pollution control since the device can serve other purposes, for example, inventory control

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes and with EQC orders. especially, Underground Storage Tank requirements under OAR Chapter 340, Division 150.

DEQ permits issued to facility:

Reviewers: Barbara J Anderson

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation:	**APPROVE**
Applicant	**Georgia-Pacific Corp.**
Application No.	**5093**
Facility Cost	**$688,783**
Percentage Allocable	**100%**
Useful Life	**10 years**

Pollution Control Facility: Water
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a paperboard manufacturing facility. The applicant is the owner of the facility and will be taking tax relief under taxpayer identification number 58-2142537. The applicant's address is:

1 Butler Bridge Road
PO Box 580
Toledo, OR 97391

Facility Identification

The certificate will identify the facility as:

Waste Water Treatment Facility Expansion

The facility is located at:

1 Butler Bridge Road
Toledo, OR 97391

Technical Information

The facility consists of aerators added to an existing lagoon. The additional production of paperboard from old corrugated containers added an additional BOD load on the lagoons. The aerators eliminate an additional 24,000 pounds of biochemical oxygen demand created by the 600 tons per day of pulp produced from old corrugated containers. They also reduce lagoon odor.

The BOD effluent loading has not increased with the increased plant production and the new aerators based on test results provided by the mill. The use of aerators in lagoons is one of the conventional means for reducing BOD.

Eligibility

ORS 468.155 (1)(a) The **principal purpose** of this **new equipment** is to prevent, control or reduce a substantial quantity of water pollution. The requirement is imposed by NPDES Permit No. 101409 that expires on July 31, 2001.

ORS 468.155 (1)(b)(A) The disposal or elimination of or redesign to eliminate industrial waste and the use of treatment works for industrial waste as defined in ORS 468B.005.

OAR-016-0025 (2)(g) Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**12/31/97**
Application Substantially Complete	**11/4/98**
Construction Started	**11/1/95**
Construction Completed	**8/28/96**
Facility Placed into Operation	**8/28/96**

Facility Cost

Facility Cost	**$ 688,783**
Ineligible Costs	$ - 0
Eligible Facility Cost	**$ 688,783**

Arthur Andersen provided the certified public accountant's statement on behalf of Georgia Pacific. The facility cost exceeds $500,000; therefore Maggie Vandehey performed an accounting review on behalf of the Department. A listing of committed purchase orders for the total project, invoices and canceled checks substantiated the cost of the facility. There were no indirect costs imprperly allocated to the facility.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost exceeds $50,000 and therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 20 years. No gross annual revenues associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The applicant states that the facility is in compliance with Department rules and statutes and with EQC orders. DEQ permits issued to facility:

NPDES #101409

Reviewers: Mar Seton, P.E., Principal, SJO Consulting Engineers, Inc.
Lois L. Payne, P.E., SJO Consulting Engineers, Inc.
Dennis E. Cartier, Associate, SJO Consulting Engineers, Inc.
Maggie Vandehey, DEQ
Elliot J. Zais, PhD, PE, DEQ

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant **Pendleton Sanitary Service, Inc.**
Application No. **5094**
Facility Cost **$48,485**
Percentage Allocable **100%**
Useful Life **10 years**

Pollution Control Facility: Solid Waste
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a garbage collection facility that is taking tax relief under taxpayer identification number 93-0789199. The applicant is the owner of the facility. The applicant's address is:

Pendleton Sanitary Service, Inc.
PO Box 1405
Pendleton, OR 97801

Facility Identification

The certificate will identify the facility as:

Site preperation for a recyclig facility and six recycling drop boxes

The facility is located at:

5500 NW Rieth Road
Pendleton, OR 97801

Technical Information

The claimed facility consists of the gravel underlayment and concrete slab for a recyclable glass storage bunker and the gravel underlayment and surface layer for a public recycling collection depot which includes six 30 yard dropboxes each for a different recyclable material.

Eligibility

ORS 468.155 (1)(a) The sole purpose of this new installation and equipment is to prevent, control or reduce a substantial quantity of solid waste.

ORS 468.155 (1)(b)(D) The use of a material recovery process which obtains useful material from material that would otherwise be solid waste as defined in ORS 4595.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**10/19/98**
Application Substantially Complete	**10/23/98**
Construction Started	**8/1/96**
Construction Completed	**10/21/96 & 3/5/97**
Facility Placed into Operation	**10/31/96 & 3/5/97**

Facility Cost

Facility Cost		**$48,485**
Salvage Value	$	-
Government Grants	$	-
Other Tax Credits	$	-
Insignificant Contribution ORS 468.155(2)(d)	$	-
Eligible Facility Cost		**$48,485.48**

The facility cost does not exceed $50,000. An independent accounting review was not required. However, invoices substantiated the cost of the facility.

Facility Cost Allocable to Pollution Control

The facility cost does not exceed $50,000. According to ORS 468.190 (3), the only factor used in determining the percentage allocable to pollution control is the percentage of time the facility is used for pollution control. Therefore, the percentage of the facility cost allocable to pollution control is **100%**.

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes and with EQC orders.

DEQ permits issued to facility: Solid Waste Disposal Permit # 444.

Reviewer: William R Bree

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant	**Byrnes Oil Co., Inc.**
Application No.	**5095**
Facility Cost	**$143,891**
Percentage Allocable	**96%**
Useful Life	**7 years**

Pollution Control Facility: USTs
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a retail gasoline facility that is taking tax relief under taxpayer identification number 93-0637344. The applicant is the owner of the facility. The applicant's address is:

Byrnes Oil Co., Inc.
PO Box 700
Pendleton, OR 97801

Facility Identification

The certificate will identify the facility as:

One fiberglass underground storage tank, epoxy lining of two existing steel tanks, doublewall flexible plastic piping, spill containment basins, automatic tank gauge system, overfill alarm, turbine leak detectors, sumps, automatic shutoff valves, and Stage I vapor recovery equipment

The facility is located at:

111 NW First
Enterprise, OR 97828

Technical Information

To respond to Underground Storage Tank requirements under OAR 340-Division 150, the applicant installed:

1) For corrosion protection - Fiberglass tank, epoxy tank lining in two existing tanks and doublewall flexible plastic piping.
2) For spill and overfill prevention - Spill containment basins, sumps, overfill alarm and automatic shutoff valves.
3) For leak detection - Automatic tank gauge system and turbine leak detectors.

In addition, the following was installed to reduce air quality emissions.

1) For VOC reduction – Stage I vapor recovery equipment.

Eligibility

ORS 468.155 (1)(a)	The **principal purpose** of these new improvements which include, equipment and devices is to prevent, control or reduce a substantial quantity of air and water pollution.
ORS 468.155 (1)(b)(A)	The disposal or elimination of or redesign to eliminate industrial waste and the use of treatment works for industrial waste as defined in ORS 468B5
OAR-016-0025 (2)(g)	Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**10/19/98**
Application Substantially Complete	**10/26/1998**
Construction Started	**12/1/97**
Construction Completed	**6/1/98**
Facility Placed into Operation	**6/1/98**

Facility Cost

Facility Cost	**$143,891**
Corrosion Protection	
Fiberglass tank and flexible plastic piping	9,697
Epoxy tank lining	15,897
Spill & Overfill Prevention	
Spill containment basins	707
Sumps	1,584
Automatic shutoff valves	3,238
Leak Detection	
Tank gauge system w/alarm	6,638
Turbine leak detectors	610
VOC Reduction	
Stage I vapor recovery	153
Labor, material, misc. parts	105,367
Eligible Facility Cost	**$143,891**

The facility cost was greater than $50,000 but less than $500,000. Therefore, **Charles D. Jenson** performed an accounting review according to Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

The facility cost exceeds $50,000. According to ORS 468.190 (1), the factors listed below were considered in determining the percentage of the facility cost allocable to pollution control. The percentage of the facility cost allocable to pollution control is **100%**.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is years. No gross annual revenues were associated with this facility.

ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	The Department has determined the percent allocable on the cost of a corrosion protected tank and piping system by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost it $9,697 and the bare steel system is $4,863, the resulting portion of the eligible tank and piping cost allocable to pollution control is 50%. The applicant's cost for a tank gauge system is reduced to 90% of cost based on a determination by the Department that this is the portion properly allocable to pollution control since the device can serve other purposes, for example, inventory control.

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes and with EQC orders. especially, Underground Storage Tank requirements under OAR Chapter 340, Division 150.

DEQ permits issued to facility:

Reviewers: Barbara J Anderson

Tax Credit Review Report

EQC 12/11/1998

Pollution Control Facility: Solid Waste
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Director's Recommendation:	**APPROVE**
Applicant	**United Disposal Service, Inc.**
Application No.	**5096**
Facility Cost	**$23,230**
Percentage Allocable	**100%**
Useful Life	**10 years**

Applicant Identification

The applicant is a C corporation operating as a solid waste and recycling collection firm that is taking tax relief under taxpayer identification number 93-0625022. The applicant is the owner of the facility. The applicant's address is:

United Disposal Service, Inc.
2215 N Front
Woodburn, OR 97071

Facility Identification

The certificate will identify the facility as:

Two SC style 30-yd drop boxes, serial numbers 10703 & 10723 and four SC style 48.9-yd drop boxes serial numbers 10672 thru 10675

The facility is located at:

2215 N Front
Woodburn, OR 97071

Technical Information

These drop boxes will be used by the applicant to collect recyclable material from commercial and industrial customers.

Eligibility

ORS 468.155 (1)(a)	The sole purpose of this new equipment is to prevent, control or reduce a substantial quantity of solid waste.
ORS 468.155 (1)(b)(D)	The use of a material recovery process which obtains useful material from material that would otherwise be solid waste as defined in ORS 4595.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**10/16/98**
Application Substantially Complete	**10/27/98**
Construction Started	**6/30/98**
Construction Completed	**7/29/98**
Facility Placed into Operation	**8/5/98**

Facility Cost

Facility Cost		**$23,230**
Salvage Value	$	-
Government Grants	$	-
Other Tax Credits	$	-
Insignificant Contribution ORS 468.155(2)(d)	$	-
Eligible Facility Cost		**$23,230**

The facility cost does not exceed $50,000. An independent accounting review was not required. However, invoices or canceled checks substantiated the cost of the facility.

Facility Cost Allocable to Pollution Control

The facility cost does not exceed $50,000. Pursuant to ORS 468.190 (3), the only factor used in determining the percentage allocable to pollution control is the percentage of time the facility is used for pollution control. Therefore, the percentage of the facility cost allocable to pollution control is **100%**.

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes and with EQC orders. There are no DEQ permits issued to this facility.

Reviewers: William R Bree

Tax Credit Review Report

EQC 12/11/1998

Pollution Control Facility: USTs
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Director's Recommendation: **APPROVE**

Applicant	**Dinty's Enterprises, Inc.**
Application No.	**5097**
Facility Cost	**$88,477**
Percentage Allocable	**89%**
Useful Life	**7 years**

Applicant Identification

The applicant is an S corporation operating as a gasoline service facility that is taking tax relief under taxpayer identification number 93-0747102. The applicant is the owner of the facility. The applicant's address is:

Dinty's Enterprises, Inc.
68800 Van Gilder Rd
Wasco, OR 97065

Facility Identification

The certificate will identify the facility as:

Two doublewall fiberglass/steel underground storage tanks, doublewall flexible plastic piping, spill containment basins, automatic tank gauge system, overfill alarm, turbine leak detectors, sumps, oil/water separator and automatic shutoff valves.
The facility is located at:

91551 Biggs Rufus Hwy 285F
Biggs Junction, OR 97065

Technical Information

To comply with underground storage tank requirements under OAR 340, Division 150 and the Oregon Uniform Fire Code, the applicant installed: 1) for corrosion protection – fiberglass/steel tanks and flexible plastic piping. 2) For spill and overfill prevention – Spill containment basins, sumps, oil/water separator, overfill alarm and automatic shutoff valves. 3) For leak detection – Automatic tank gauge system, monitoring wells and turbine leak detectors.

Eligibility

ORS 468.155 (1)(a)	The **principal purpose** of this new improvement, which includes installation of equipment and devices is to prevent, control or reduce a substantial quantity of air and water pollution.
ORS 468.155 (1)(b)(A)	The disposal or elimination of or redesign to eliminate industrial waste and the use of treatment works for industrial waste as defined in ORS 468B5
OAR-016-0025 (2)(g)	Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**10/19/98**
Application Substantially Complete	**10/27/1998**
Construction Started	**4/11/97**
Construction Completed	**8/15/97**
Facility Placed into Operation	**8/15/97**

Facility Cost

Facility Cost	**$88,477**
Corrosion Protection	
Doublewall fiberglass/steel tanks and piping	27,073
Spill & Overfill Prevention	
Spill containment basins	4,692
Sumps	1,800
Automatic shutoff valves	633
Overfill alarm	315
Oil/water separator	5,750
Leak Detection	
Tank gauge system	9,646
Turbine leak detectors	843
Labor, material, misc. parts	37,725
Eligible Facility Cost	**$88,477**

The facility cost was greater than $50,000 but less than $500,000. Therefore, **E K Williams & Co.** performed an accounting review according to Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

The facility cost exceeds $50,000. According to ORS 468.190 (1), the factors listed below were considered in determining the percentage of the facility cost allocable to pollution control. The percentage of the facility cost allocable to pollution control is **100%**.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 7 years. No gross annual revenues were associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	The Department has determined the percent allocable on the cost of a corrosion protected tank and piping system by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system.

Applying this formula to the costs presented by the applicant, where the protected system cost is $27,073 and the bare steel system is $8,271, the resulting portion of the eligible tank and piping cost allocable to pollution control is 69%. The applicant's cost for a tank gauge system is reduced to 90% of cost based on a determination by the department that his is the portion properly allocable to pollution control since the device can serve other purposes, for example, inventory control.

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes and with EQC orders. especially, Underground Storage Tank requirements under OAR Chapter 340, Division 150.

DEQ permits issued to facility:

Reviewers: Maggie Vandehey

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant	**McKee Farms**
Application No.	**5098**
Facility Cost	**$67,005**
Percentage Allocable	**68%**
Useful Life	**10 years**

Pollution Control Facility: Field Burning
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a partnership operating as a grass seed farm. The applicant is the owner of the facility and will be taking tax relief under taxpayer identification number 93-0989750. The applicant's address is:

McKee Farms
22450 SW McKee Rd
Amity, OR 97101

Facility Identification

The certificate will identify the facility as:

A 120'x 80'x 20'storage barn for grass seed straw.

The facility is located at:

22450 SW McKee Rd
Amity, OR 97101

Technical Information

The applicant owns 620 acres and leases another 217 acres. All acreage has perennial grass seed under cultivation. McKee Farms has progressively reduced acres open field burned over the last several years. They continue to increase their efforts to remove straw by baling and flail chopping.

Providing protection from inclement weather to the baled straw allows the applicant to cease stack burning and open field burning on any of their grass seed acreage.

Eligibility

ORS 468.155 (1)(a)	The **principal purpose** of this **new building** is to prevent a substantial quantity of air pollution.
OAR-016-025 (2)(f)(A)	Equipment, facilities, and land for gathering, densifying, processing, handling, storing, transporting and incorporating grass straw or straw based products which will result in reduction of open field burning.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**10/19/98**
Application Substantially Complete	**10/27/98**
Construction Started	**7/1/96**
Construction Completed	**5/1/97**
Facility Placed into Operation	**8/1/97**

Facility Cost

Facility Cost		**$67,005**
Salvage Value	$	-
Government Grants	$	-
Other Tax Credits	$	-
Insignificant Contribution ORS 468.155(2)(d)	$	-
Eligible Facility Cost		**$67,005**

The facility cost was greater than $50,000 but less than $500,000. Therefore, Brenner & Company, LLP performed an accounting review according to Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

The facility cost exceeds $50,000. According to ORS 468.190 (1), the factors listed below were considered in determining the percentage of the facility cost allocable to pollution control. The percentage of the facility cost allocable to pollution control is **100%**.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity. Straw protected from inclement weather is a salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 30 years. The projected average annual cash flow of the facility is $3,000 producing a return on investment factor of 22.335. The facility ROI from table 1 is 2.0. Using the national ROI for 1997 of 6.3 the percentage of the facility cost allocable to pollution control is 68%.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.

Reviewers: James Britton

Tax Credit Review Report

EQC 12/11/98

Pollution Control Facility: Solid Waste
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Director's Recommendation:	**APPROVE**
Applicant	**Michael J. Monroe: dba Bert's Auto Salvage**
Application No.	**5099**
Facility Cost	**$49,650**
Percentage Allocable	**100%**
Useful Life	**10 years**

Applicant Identification

The applicant is a Sole Proprietor operating as an auto salvage facility that is taking tax relief under taxpayer identification number 93-1056225. The applicant is the owner of the facility. The applicant's address is:

Michael J. Monroe dba Bert's Auto Salvage
30775 E. Baggett Lane
Hermiston, OR 97838

Facility Identification

The certificate will identify the facility as:

1 Tire baler, Eco Baler serial # 980033
5 sets of steel concrete forms serial #980034

The facility is located at:

30775 E. Baggett Lane
Hermiston, OR 97838

Technical Information

The Eco-baler is used to compact waste tires into a tight bale, 42" x 42"x 84", bound with steel strapping. The tire bales are then used for the core of a steel reinforced concrete block, 4' x 4' x 8' which is made in the steel forms. The block are then sold, or used on site, for construction purposes.

Eligibility

ORS 468.155 (1)(a) The **sole purpose** of this equipment is to prevent, control or reduce a substantial quantity of solid waste.

ORS 468.155 (1)(b)(D) The use of a material recovery process which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**10/21/98**
Application Substantially Complete	**10/23/98**
Construction Started	**5/1/98**
Construction Completed	**9/1/98**
Facility Placed into Operation	**9/1/98**

Facility Cost

Facility Cost		**$49,650**
Salvage Value	$	-
Government Grants	$	-
Other Tax Credits	$	-
Insignificant Contribution ORS 468.155(2)(d)	$	-
Eligible Facility Cost		**$49,650**

The facility cost does not exceed $50,000. An independent accounting review was not required. However, invoices substantiated the cost of the facility.

Facility Cost Allocable to Pollution Control

The facility cost does not exceed $50,000. According to ORS 468.190 (3), the only factor used in determining the percentage allocable to pollution control is the percentage of time the facility is used for pollution control. Therefore, the percentage of the facility cost allocable to pollution control is **100%**.

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes and with EQC orders.

There are DEQ permits issued to this facility. There is a DEQ tire storage permit, WTS 1190 being issued to the applicant for activities associated with this facility.

Reviewers: William R Bree

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant **Richard D. Baker/Russell Baker**
Application No. **5106**
Facility Cost **$164,562**
Percentage Allocable **92%**
Useful Life **10 years**

Pollution Control Facility: Field Burning
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is an individual operating as a grass seed farm. The applicant is the owner of the facility that will be taking tax relief under taxpayer identification number 93-0977461. The applicant's address is:

Richard D. Baker/Russell Baker
32283 Diamond Hill Drive
Harrisburg, OR 97446

Facility Identification

The certificate will identify the facility as:

A 24x124x270 pole building with painted metal siding.

The facility is located at:

32283 Diamond Hill Drive
Harrisburg, OR 97446

Technical Information

The applicant owns (367 acres) and leases 225 perennial and 380 annual acres under grass seed cultivation. Initially the Bakers open field burned as many acres as the smoke management program and weather permitted. The applicants have significantly reduced their open field burning since the late 1980s and early 1990.

In addition to their own perennial acreage stored in the facility, the applicants provide storage for 775 acres of their neighbor's perennial straw. Providing protection from inclement weather for the baled straw allows the applicants and their neighbors to avoid stack burning and open field burning on approximately 1000 acres of perennial grass seed acreage.

Eligibility

ORS 468.155 (1)(a) The **principal purpose** of this **new building** is to prevent a substantial quantity of air pollution.

OAR-016-025 (2)(f)(A) Equipment, facilities, and land for gathering, densifying, processing, handling, storing, transporting and incorporating grass straw or straw based products which will result in reduction of open field burning.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**10/22/98**
Application Substantially Complete	**10/29/98**
Construction Started	**11/01/97**
Construction Completed	**4/01/98**
Facility Placed into Operation	**7/01/98**

Facility Cost

Facility Cost	**$164,562**
Insignificant Contribution ORS 468.155(2)(d)	0
Eligible Facility Cost	**$164,562**

The facility cost was greater than $50,000 but less than $500,000. Therefore, Andrew A. Ingalls, Jr., CPA performed an accounting review according to Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

The facility cost exceeds $50,000. According to ORS 468.190 (1), the factors listed below were considered in determining the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity. Straw protected from inclement weather is a salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 20 years. The projected average annual cash flow of the facility is $8,700 producing a return on investment factor of 18.915. The facility ROI from Table 1 is .5. Using the national ROI for 1998 of 6.3 the percentage of the facility cost allocable to pollution control is 92%.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.

Reviewers: James Britton

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant **Hwy 99 Tire & Automotive Inc.**
Application No. **5109**
Facility Cost **$4,497**
Percentage Allocable **100%**
Useful Life **3 years**

Pollution Control Facility: Air
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is an S corporation operating as a retail automotive repair shop that is taking tax relief under taxpayer identification number 93-1251740. The applicant is the owner of the facility. The applicant's address is:

Hwy 99 Tire & Automotive Inc.
Nelson's Tire & Automotive
13880 SW Pacific Hwy
Tigard, OR 97223

Facility Identification

The certificate will identify the facility as:

R-12 & R-134A recovery and recycling equipment.

The facility is located at:

Nelson's Tire & Automotive
13880 SW Pacific Hwy
Tigard, OR 97223

Technical Information

The equipment controls air contaminants by recycling automobile air conditioner refrigerants instead of discharging to the atmosphere. Recycled refrigerant exceeds SAE J2210 and J1991 purity. The design is UL/CUL listed and EPA Approved for meeting Society of Automotive Engineers (SAE) standards J1991 and J1220. The model is a Viper GT.

Eligibility

ORS 468.155 (1)(a) The **principal purpose** of this **new equipment** is to comply with the DEQ requirements of OAR 340-22-405 to OAR 340-22-415, Control Ozone Depleting Chemicals, to recycle air conditioning refrigerants. This equipment captures and recycles contaminants that would otherwise be released to the atmosphere, as defined in ORS 468.275.

ORS 468.155 (1)(b)(B) The disposal or elimination of or redesign to eliminate air contamination sources and the use of air cleaning devices as defined in ORS 468A.005

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**10/28/1998**
Application Substantially Complete	**11/02/1998**
Construction Started	**10/08/1998**
Construction Completed	**10/08/1998**
Facility Placed into Operation	**10/08/1998**

Facility Cost

Facility Cost		**$5,197**
Salvage Value	$	-
Government Grants	$	-
Other Tax Credits	$	-
Ineligible Cost		
Recharge Capabilities		(700)
Eligible Facility Cost		**$4,497**

The facility cost does not exceed $50,000; therefore, an independent accounting review was not required. A single invoice substantiated the cost of the facility.

Facility Cost Allocable to Pollution Control

The facility cost does not exceed $50,000. According to ORS 468.190 (3), the only factor used in determining the percentage allocable to pollution control is the percentage of time the facility is used for pollution control. Therefore, the percentage of the facility cost allocable to pollution control is **100%**.

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes and with EQC orders.

Reviewers: Margaret C. Vandehey

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant	**Rexius Forest By-Products Inc.**
Application No.	**5110**
Facility Cost	**$155,000**
Percentage Allocable	**100%**
Useful Life	**7 years**

Pollution Control Facility: Solid Waste
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a Sole Proprietor operating as an auto salvage facility that is taking tax relief under taxpayer identification number 93-0925466. The applicant is the owner of the facility. The applicant's address is:

Rexius Forest By-Products Inc.
750 Chambers Street
Eugene, Oregon 97402

Facility Identification

The certificate will identify the facility as:

A Peterson HC 7400 Wood Recycler Serial number 18-01-377.

The facility is located at:

1300 Bailey Hill Road
Eugene, Oregon 97402

Technical Information

The Peterson Wood Recycler is a heavy duty hammermill designed to process hard debris and heavy wood products into small pieces that can be easily composted into a soil amendment product. This model grinder is portable and incorporated the feed mechanism and output sizing screens into a single unit.

Eligibility

ORS 468.155 (1)(a) The sole purpose of this equipment is to prevent, control or reduce a substantial quantity of solid waste. This facility is part of a composting process which converts yard debris and wood waste into gardent compost products. This equipment is used to do the preliminary processing of the feed stock.

ORS 468.155 (1)(b)(D) The use of a material recovery process which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**10/25/98**
Application Substantially Complete	**10/29/98**
Construction Started	**1/2/98**
Construction Completed	**1/2/98**
Facility Placed into Operation	**1/2/98**

Facility Cost

Facility Cost	**$460,000**
Salvage Value	$ 305,000
Government Grants	$ -
Other Tax Credits	$ -
Insignificant Contribution ORS 468.155(2)(d)	$ -
Eligible Facility Cost	**$155,000**

The facility cost exceeds $50,000. The applicant provided a single invoice for the purchase of the claimed equipment and has requested a waiver of the indendent accoutant's certification. facility.

Facility Cost Allocable to Pollution Control

Pursuant to ORS 468.190 (1), the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	The facility produces an intermediate product in the yard debris composting process.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 7 years. The applicant reports a gross annual income less than annual operating expenses for this facility. Therefore, the return on investment is negative and the portion of the investment allocable to pollution control is 100%.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.

The facility is applying for a DEQ solid waste composting general permit.

Reviewers: William R Bree

Tax Credit Review Report

EQC 12/11/1998

Pollution Control Facility: Field Burning
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Director's Recommendation: **APPROVE**

Applicant	**Jerry & Betty Marguth**
Application No.	**5112**
Facility Cost	**$89,834**
Percentage Allocable	**100%**
Useful Life	**10 years**

Applicant Identification

The applicant is an individual operating as a grass seed farm that is taking tax relief under taxpayer identification number 540-58-3988. The applicant is the owner of the facility. The applicant's address is:

Jerry & Betty Marguth
24570 Schultz Rd.
Junction City, OR 97448

Facility Identification

The certificate will identify the facility as:

installed a storage shed for straw 100' x 125' x 22'

The facility is located at:

24570 Schultz Rd.
Junction City, OR 97448

Technical Information

The applicant leases 750 perennial and 173 annual acres under grass seed cultivation. Since 1988, the Marguths have progressively reduced acres open field burned. They continue to increase their efforts to have straw removed by baling and by flail chopping. The storage facility for grass seed straw is necessary to ensure the timely services of the custom baler. Providing protection from inclement weather to the baled straw allows the applicant to cease stack burning and open field burning on the majority of their grass seed acreage.

Eligibility

ORS 468.155 (1)(a)	The **principal purpose** of this **additional structure is to prevent**, control or reduce a substantial quantity of air pollution.
OAR-016-025 (2)(f)(A)	Equipment, facilities, and land for gathering, densifying, processing, handling, storing, transporting and incorporating grass straw or straw based products

which will result in reduction of open field burning.

OAR-016-0025 (2)(f)(B) Propane flamers or mobile field sanitizers which are alternatives to open field burning and reduce air quality impacts.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**11/02/1998**
Application Substantially Complete	**10/30/1998**
Construction Started	**04/01/1998**
Construction Completed	**05/01/1998**
Facility Placed into Operation	**05/01/1998**

Facility Cost

Facility Cost		**$89,834**
Salvage Value	$	-
Government Grants	$	-
Other Tax Credits	$	-
Insignificant Contribution ORS 468.155(2)(d)	$	-
Eligible Facility Cost		**$89,834**

The facility cost was greater than $50,000 but less than $500,000. Therefore, **John R Sooy, CPA** performed an accounting review according to Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

The facility cost exceeds $50,000. According to ORS 468.190 (1), the factors listed below were considered in determining the percentage of the facility cost allocable to pollution control. The percentage of the facility cost allocable to pollution control is **100%**.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	Straw protected from inclement weather is a salable or reusable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 20 years. The projected annual cash flow of the facility is $4,300 producing a return on investment factor of 20.89. The facility ROI from table 1 is 0. Using the national ROI for 1998 of 6.3 the percentage of the facility cost allocable to pollution control is 100%.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.

ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes and with EQC orders.

DEQ permits issued to facility:

Reviewers: James Britton
Denise Roth

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant	**IOKA Farms, Inc**
Application No.	**5114**
Facility Cost	**$111,437**
Percentage Allocable	**100%**
Useful Life	**10 years**

Pollution Control Facility: Field Burning
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is an individual operating as a grass seed farm that is taking tax relief under taxpayer identification number 93-0567905. The applicant is the owner of the facility. The applicant's address is:

IOKA Farms, Inc
13512 Doerfler Rd SE
Silverton, OR 97381

Facility Identification

The certificate will identify the facility as:
A 24' x 80' x 200' steel construction with gravel floor, grass seed straw storage building

The facility is located at:

13512 Doerfler Rd Se
Silverton, OR 97381

Technical Information

The applicant has 3,000 perennial grass seed acres under cultivation. Initially IOKA Farms, Inc open field burned as many acres as the smoke management program and weather permitted. The applicants have significantly reduced their open field burning over the past two years. The facility will provide storage for 700 acres of grass seed straw.

Eligibility

ORS 468.155 (1)(a)	The **purpose** of this building is to prevent, control or reduce a substantial quantity of air pollution.
OAR-016-025 (2)(f)(A)	Equipment, facilities, and land for gathering, densifying, processing, handling, storing, transporting and incorporating grass straw or straw based products which will result in reduction of open field burning.
OAR-016-0025 (2)(f)(B)	Propane flamers or mobile field sanitizers which are alternatives to open field burning and reduce air quality impacts.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**11/10/98**
Application Substantially Complete	**11/19/98**
Construction Started	**05/01/97**
Construction Completed	**07/24/97**
Facility Placed into Operation	**07/24/97**

Facility Cost

Facility Cost	**$111,437**
Salvage Value	$ -
Government Grants	$ -
Other Tax Credits	$ -
Insignificant Contribution ORS 468.155(2)(d)	$ -
Eligible Facility Cost	**$111,437**

The facility cost was greater than $50,000 but less than $500,000. Therefore, **Nichol, Hoots, Weyant & Baker, P.C.** performed an accounting review according to Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

The facility cost exceeds $50,000. According to ORS 468.190 (1), the factors listed below were considered in determining the percentage of the facility cost allocable to pollution control. The percentage of the facility cost allocable to pollution control is **100%**.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	Straw protected from inclement weather is a salable or usable commodity
ORS 468.190(1)(b) Return on Investment	No gross annual revenues were associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	There is a projected annual increase in costs of $3,700 to maintain the facility
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Compliance and Other Tax Credits

The facility is in compliance with Department rules and statutes and with EQC orders.

DEQ permits issued to facility:

Reviewers: James Britton
Denise Roth

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **APPROVE**

Applicant	**Donald F Wiltse**
Application No.	**5115**
Facility Cost	**$63,489**
Percentage Allocable	**98%**
Useful Life	**7 years**

Pollution Control Facility: USTs
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as commercial cardlock fuel facility taking tax relief under taxpayer identification number. The applicant is the owner of the facility. The applicant's address is:

Donald F Wiltse
181 19th St
Lyons, OR 97358

Facility Identification

The certificate will identify the facility as:

Epoxy lining and cathodic protection in four existing steel underground storage tanks, fiberglass piping, spill containment basins, automatic tank gauge system with overfill alarm, line leak detectors and Stage II vapor recovery piping.
The facility is located at:
11212 HWY 226
Mehama, OR 97384

Technical Information

To respond to Underground Storage Tank requirements under OAR 340-Division 150, the applicant installed for corrosion protection – Epoxy tank lining and cathodic protection on existing steel underground storage tanks and fiberglass piping. For spill and overfill prevention – Spill containment basins and an overfill alarm. For leak detection – Automatic tank gauge system and line leak detectors. In addition the following was installed to reduce air quality emissions. For VOC reduction- Stage II vapor recovery piping.

Eligibility

ORS 468.155 (1)(a)	The **purpose** with this **addition of equipment and devices** is to prevent, control or reduce a substantial quantity of air and water pollution..
OAR-016-0025 (2)(g)	Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**11/09/1998**
Application Substantially Complete	**11/19/1998**
Construction Started	
Construction Completed	**07/01/1998**
Facility Placed into Operation	**07/01/1998**

Facility Cost

Facility Cost	**$63,489**
Corrosion Protection	
Fiberglass and piping	11,900
Epoxy tank lining and cathodic protection	30,425
Spill & Overfill Prevention	
Spill Containment basins	5,180
Leak Detection	
Tank gauge system w/alarm	9,112
Line leak detectors	1,350
Labor, material, misc. parts, incl Stage II vapor recovery piping	5,522
Eligible Facility Cost	**$63,489**

The facility cost was greater than $50,000 but less than $500,000. **Clinton J. Bentz, CPA** performed an accounting review accourding to Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost exceeds $50,000 and therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	No gross annual revenues were associated with this facility.
ORS 468.190(1)(c) Alternative Methods	The applicant chose the method considered to be most cost-effective. The methods chosen are acceptable for meeting the requirements of federal regulations.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	The Department has determined the percent allocable on the cost of a corrosion protected piping system by using a formula based on the difference in cost between the protected piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is $11,900 and the bare steel system is

$328, the resulting portion of the eligible tank and piping cost allocable to pollution control is 97%. The applicant's cost for a tank gauge system is reduced to 90% of cost based on a determination by the Department that this is the portion properly allocable to pollut8ion control since the device can serve other purposes, for example, inventory control.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. especially, Underground Storage Tank requirements under OAR Chapter 340, Division 150.

DEQ permits issued to facility:

Reviewers: Barbara J Anderson

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation:	**APPROVE**
Applicant	**Peter J. Kryl**
Application No.	**5116**
Facility Cost	**$19,967**
Percentage Allocable	**100%**
Useful Life	**7 years**

Pollution Control Facility: USTs
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as commercial cardlock fuel facility taking tax relief under taxpayer identification number. The applicant is the owner of the facility. The applicant's address is:

Peter J Kryl
2185 W 29th Ave
Eugene, OR 97405

Facility Identification

The certificate will identify the facility as:

Epoxy lining in one steel underground storage tank and flexible plastic piping.
The facility is located at:

1888 Franklin Blvd

Technical Information

To respond to Underground Storage Tank requirements under OAR 340-Division 150, the applicant installed for corrosion protection – Epoxy tank lining and flexible plastic piping.

Eligibility

ORS 468.155 (1)(a) The **purpose** with this **addition of equipment and devices** is to prevent, control or reduce a substantial quantity of air and water pollution.

OAR-016-0025 (2)(g) Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**11/09/1998**
Application Substantially Complete	**11/19/1998**
Construction Started	
Construction Completed	**10/12/1998**
Facility Placed into Operation	**10/12/1998**

Facility Cost

Facility Cost	**$**
Corrosion Protection	
Epoxy tank lining	8,649
Cathodic protection on tanks	7,010
Labor, material, misc. parts	4,308
Eligible Facility Cost	**$**

Invoices or canceled checks substantiated the cost of the facility. The facility cost does not exceed $50,000; therefore, an independent accounting review was not required.

Facility Cost Allocable to Pollution Control

This facility is used 1005 for the recycling a reclaimed plastic. There fore, in accordance with ORS 468.486, the portion of cost allocable to recycling is 100%

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	No gross annual revenues were associated with this facility.
ORS 468.190(1)(c) Alternative Methods	The applicant chose the method considered to be most cost-effective. The methods chosen are acceptable for meeting the requirements of federal regulations.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. especially, Underground Storage Tank requirements under OAR Chapter 340, Division 150.

DEQ permits issued to facility:

Reviewers: Barbara J Anderson

Attachment C

Denials

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **Deny – Ineligible Facility**

Applicant	**Columbia Forest Products, Inc.**
Application No.	**4688**
Claimed Facility Cost	**$554,768**
Claimed Percentage Allocable	**100%**
Useful Life	**10 years**

Pollution Control Facility Tax Credit: Air
ORS 468.150 -- 468.190
Final Certification

Applicant Information

The applicant is a C corporation operating as veneer manufactuer taking tax relief under taxpayer identification number 93-0511661. The applicant is the owner of the facility. The applicant's address is:

Kalamath Falls Division
PO BOX 1780
KLAMATH FALLS, OR 97601

Facility Information

The certificate will identify the facility as:

An electrostatic percipitator.

The facility is located at:

Hwy. 97
Klamath Falls, OR

Technical Information

Prior to the installation of the electrostatic precipitators (ESP), particles were released directly into the air causing the plant to be 9 lbs./hr over permit levels for total suspended particles (TSP). After the installation of the ESP, testing showed a grain loading reductions of 89% and 84% on the dryers below previous test levels; 84% below permit levels.

Eligibility

The facility is not eligible because the ESP was permanently taken out of service.

ORS 468.155 (1)(a) **The principal purpose** of this **new structure, installation and equipment** prevent, control or reduce air pollution. DEQ Air Contaminant Discharge Permit #180014.

ORS 468.155 (1)(b)(B) The disposal or elimination of or redesign to eliminate air contamination sources and the use of air cleaning devices as defined in ORS 468A.005

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**11/06/1996**
Application Substantially Complete	**9/11/1998**
Construction Started	**06/01/1996**
Construction Completed	**07/15/1996**
Facility Placed into Operation	**07/15/1996**

Facility Cost

Facility Cost		**$554,768**
Salvage Value	$	-
Government Grants	$	-
Other Tax Credits	$	-
Ineligible Costs	$	-
Eligible Facility Cost	**$**	**$554,768**

Documentation and invoices substantiate the cost of the facility and a certified public accountant's statement, completed by Arthur Andersen, LLP, accompanied the application. Symonds, Evans & Larson, P.C. performed the accounting review on behalf of the Department. Symonds, Evans & Larson inspected 92% of the claimed facility cost.

Facility Cost Allocable to Pollution Control

According to ORS 468.190(1), the Department considered the following factors in the determination of the percentage of the facility cost allocable to pollution control. The percentage of time the facility was used for pollution control and therefore, the percentage allocable to pollution control is 100%.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	No return on investment.
ORS 468.190(1)(c) Alternative Methods	Alternatives were investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Reviewers: Cascade Earth Sciences - RAD, SKR
Maggie Vandehey
Symonds, Evans & Larson, P.C.

Tax Credit Review Report

EQC 12/11/1998

Director's Recommendation: **DENY**
Previously Certified

Applicant	**Georgia-Pacific West Corp.**
Application No.	**4945**
Claimed Facility Cost	**$3,463,969**
Claimed Percentage Allocable	**100%**
Useful Life	**10 years**

Pollution Control Facility: Air
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as an integrated paperboard manufacturing facility. The applicant is the owner of the facility and will be taking tax relief under taxpayer identification number 58-2142537. The applicant's address is:

Georgia-Pacific West Corp.
1 Butler Bridge Road
PO Box 580
Toledo, OR 97391

Facility Identification

The certificate will identify the facility as:

Electrostatic Precipitator (ESP).
The facility is located at:

1 Butler Bridge Road
Toledo, OR 97391

Technical Information

This facility consists of an electrostatic precipitator (ESP) on the hog fuel boiler. This ESP removes particulate matter and controls opacity from the boiler exhaust. It replaced a previously certified dry rock scrubber installed in 1977. The boiler provides steam for the operation of the pulp and paper mill.

The replaced rock scrubber had an estimated efficiency of about 75%, while the design efficiency of the ESP is better than 99%. The mill reports a drop of 96% in particulate emissions from this boiler. Opacity emissions decreased from 10% to 4% with the ESP.

An ESP operates by directing the exhaust through a quenching grid into an electrostatic zone where the particulate and remaining water droplets are collected. The cleaned gas then passes through the system, out a stack and is discharged to the atmosphere. ESP's are considered to be one of the best devices for controlling emissions from hog fuel boilers.

Eligibility

ORS 468.155 (1)(a) The **principal purpose** of this **new installation** is to comply with the requirements of the Oregon Department of Environmental Quality.
The requirement is imposed by the Department as a condition of Permit 21-0005 that expires on April 1, 2000. Condition 52 of the permit limits opacity to no more than 3 minutes in any hour when the opacity can exceed 40%. The rock scrubber could not meet condition 52, therefore, the ESP qualifies for certification if the cost to replace the facility is greater than the like-for-like replacement cost of the original facility.

OAR 340-16-025(g)(A) and/or ORS 468.155 (2)(e)(A) **Like-for-Like Replacement:** The rock scrubbers that this ESP replaced were issued tax credit Certificate No. 1074 dated 5/16/80, totalling $1,478,617.

A "Pollution Control Facility" does not include replacement of all or part of any facility for which a pollution control facility certificate has previously been issued except if the cost to replace the facility is greater than the like-for-like replacement cost of the original facility due to a requirement imposed by the Department, then the facility may be eligible for tax credit certification up to an amount equal to the difference between the cost of the new facility and the like for like replacement cost of the original facility.

ORS 468.155 (1)(b)(B) The disposal or elimination of or redesign to eliminate air contamination sources and the use of air cleaning devices as defined in ORS 468A.005

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**12/31/97**
Additional Information Requested	**3/17/98**
Additional Information Received	**9/13/98**
Application Substantially Complete	**10/15/98**
Construction Started	**2/1/96**
Construction Completed	**2/28/96**
Facility Placed into Operation	**2/28/96**

Facility Cost

Facility Cost		**$ 3,463,969**
Like-for-Like Replacement of previous facility certified as a pollution control facility.		**$ - 3,742,447**
Environmental Tax Credit		
Ineligible Costs		
Air purifier	$ 13,495	
Fan housing	27,602	
Flashings	15,400	
Heat pump	2,800	
Piping	29,334	
Roofing	1,950	
Steel	105,646	
Steel installation	154,712	
Engineering & Construction	156,795	
Total:		**$ - 507,734**
Eligible Facility Cost		**$ 0**

A computer printout listing committed purchase orders by vendor for the total project was provided to substantiate the cost of the facility. **Arthur Andersen** provided the certified public accountant's statement

The Department uses the Consumer Price Index to help determine the like-for-like replacement cost. The CPI in August of 1977 was 61.2 and in February of 1997 it was 154.9. Using these factors the replacement cost would be $3,742,447. Since this is greater than the claimed cost of the new facility, none of the claimed costs are eligible for tax credit certification.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost exceeds $50,000 and therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 20 years. No gross annual revenues associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The applicant states that the facility is in compliance with Department rules and statutes and with EQC orders. DEQ permits issued to facility:

Air Contaminent Discharge Permit No. 21-0005, expiring on April 1, 2000.

Reviewers: Mar Seton, P.E., Principal, SJO Consulting Engineers, Inc.
Lois L. Payne, P.E., SJO Consulting Engineers, Inc.
Dennis E. Cartier, Associate, SJO Consulting Engineers, Inc.
Maggie Vandehey, DEQ

Tax Credit Review Report

EQC 12/11/98

Pollution Control Facility: Solid Waste
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0080

Director's Recommendation:	**DENY**
Applicant:	**Willamette Industries, Inc.**
Application No.	**4990**
Claimed Facility Cost	$49,254
Claimed Percentage Allocable	100%
Useful Life	**7 years**

Applicant Identification

The applicant is a C corporation operating as a "paper mill" taking tax relief under taxpayer identification number 93-0312940. The applicant is the owner of the facility. The applicant's address is:

1300 SW Fifth Avenue
Suite 3800
Portland, OR 97201

Facility Identification

The certificate will identify the facility as:

An upgrade to an existing sawdust collection system with a Western Pneumatic 200 baghouse, model BH2.

The facility is located at:

2550 Progress Way
Woodburn, OR 97071

Technical Information

The claimed facility, dust collection system and material storage portion of a bag house. is used to collect sawdust and wood waste, which is subsequently sent to another wood product facility for recycling into new products. Prior to installation of this collection system the sawdust from this portion of the plant went into the hogged fuel collection system. The claimed facility recovers recyclable wood waste. The applicant is only claiming 46% of the cost of the collection system since the other portion of the system is a bag house/filter that is used for air pollution control, and claimed under a different application.

Eligibility

ORS 468.155 (1)(a) The facility does **not** meet the **principal purpose** portion of the definition of a pollution control facility because DEQ or EPA did not require the control.

The facility does **not** meet the **sole purpose** portion of the definition, as claimed by the applicant, since it is not used exclusively for pollution control. The equipment claimed is not unique to handling recyclable material. In this case,

the claimed equipment carries out two functions: 1) it removes wood waste from the production line and 2) it collects that material for recycling. Since the wood waste must be removed from the production line regardless of any future recycling the sole and "exclusive" use of this facility is not pollution control.

The claimed facility does not meet the definition of a pollution control facility.

ORS 468.155 (1)(b)(D) The use of a material recovery process which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.005.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**4/3/98**
Application Substantially Complete	**4/21/98**
Construction Started	**3/10/97**
Construction Completed	**4/19/97**
Facility Placed into Operation	**4/19/97**

Facility Cost

Facility Cost		**$49,254**
Salvage Value		
Government Grants		
Other Tax Credits		
Ineligible Costs	-$	**$49,254**
Eligible Facility Cost		**$0**

Invoices or canceled checks substantiated the cost of the facility. KPMG Peat Marwick LLP provided the certified public accountant's statement.

Facility Cost Allocable to Pollution Control

The facility cost does not exceed $50,000. Therefore, pursuant to ORS 468.190 (3), the only factor used to determine the percentage of the facility cost allocable to pollution control is the percentage of time the facility is used for pollution control. The percentage of time this facility is used for pollution control and therefore, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.
This facility is also associated with the following DEQ permits; Air Minimal Source 248060 5/11/90 and Stormwater 1200W 2/93 H

Reviewer: William R Bree

Tax Credit Review Report

EQC 12/11/98

Director's Recommendation: **DENIAL**

Applicant **Widmere Brothers Brewing Company**
Application No. **5005**
Facility Cost **$276,673**
Percentage Allocable **100%**
Useful Life **10 years**

Pollution Control Facility Tax Credit: Solid Waste
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a brewery taking tax relief under taxpayer identification number 93-0866469. The applicant is the owner of the facility. The applicant's address is:

929 N Russell Street
Portland, OR 97227

Facility Identification

The certificate will identify the facility as:

a solid waste handling system for spent grains

The facility is located at:

929 N Russell Street
Portland, OR

Technical Information

The claimed facility consists of the following: a spent rains buffer tank; compacting auger; transfer piping with air injection; spent grain holding silo; and rotary metering valve and control panel. This equipment processes, transports, and stores the spent grain pursuant to its becoming animal feed. The equipment de-waters and processes the spent grain so that it is suitable to be transported and used for animal feed. The system processes approximately 7 million pounds of spent grain per year.

Eligibility

ORS 468.155 (1)(a) The facility does not meet the threshold definition of a pollution control facility because:

1) It does **not** meet the **principal purpose** portion of the definition since it was not required by DEQ or EPA.

2) It does **not** meet the **sole purpose** portion of the definition since it is not used "exclusively" for pollution control. The facility is used to remove spent grain from the brewing process as well as collecting spent grains which will be use as cattle feed. Since the removing spent grain from the brewing process is a standard industry practice the sole and "exclusive" purpose of the facility is not pollution control regardless of any future reuse.

The applicant claims: 1) The sole purpose of this new equipment is to prevent, control or reduce a substantial quantity of solid waste: 2) It is used exclusively to de-water, transport and store spent grain that is subsequently reused: and 3) The system was designed and is used uniquely for this purpose.

ORS 468.155 (1)(b)(D) Since it is an established industry practice to make spent grain available for reuse as animal feed rather than dispose of it as solid waste the spent grain at this site would not be considered solid waste. Therefore, the facility does not meet the definition of a material recovery process which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.005.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**04/29/1998**
Application Substantially Complete	**10/13/1998**
Construction Started	**04/01/1995**
Construction Completed	**04/30/1996**
Facility Placed into Operation	**04/30/1996**

Facility Cost

Facility Cost	**$276,673**
Salvage Value	$ -
Government Grants	$ -
Other Tax Credits	$ -
Insignificant Contribution (ORS 468.155(2)(d))	$ -
Ineligible Costs	$ -
Eligible Facility Cost	**$276,673**

Invoices or canceled checks substantiated the cost of the facility. The facility cost is greater than $50,000 but less than $500,000 . Coopers & Lybrand L.L.P. performed an accounting review accourding to Department guidelines on behalf of the Applicant.

Facility Cost Allocable to Pollution Control

According to ORS 468.190(1), the facility cost exceeds $50,000 and therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	As required by the definition of material recovery a salable or useable commodity is produced.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 15

	years. The application indicated no gross annual revenues for the facility. With no revenue the facility has a negative annual cash flow, negative return on investment and is the cost 100% allocable to pollution control.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.

There are no DEQ permits issued to the claimed facility:

Reviewers: William R Bree

Attachment D

Discussion

Tax Credit Review Report

EQC 12/11/98

Director's Recommendation	**Approve**
Applicant	**Tidewater Barge Lines, Inc.**
Application No	**4957**
Facility Cost	**$237,000**
Percentage Allocable	**100%**
Useful Life	**10 years**

Pollution Control Facility: Air/Water
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a tow boat company taking tax relief under taxpayer identification number 93-0278300. The applicant's address is:

63050 NW Old Lower River Road
Vancouver, WA 98660

The applicant is the leasee of the facility. Tidewater Barge Lines is an Oregon corporation. *The Prospector* is under lease to Tidewater from Banc One Leasing Corporation, the barge owner. A copy of the lease agreement was attached to the application as required for leased facilities.

Facility Identification

The certificate will identify the facility as:

Vapor recovery system on the *Prospector* barge

The barge is mobile and used in both Oregon and Washington waters. The claimed facility is primarily used at:

Portland Harbor
Portland, OR

Technical Information

The vapor recovery system included in the construction of the *Prospector* barge eliminates the discharge of vapors from the vessel during loading of petroleum cargo and returns them to the shore-side-shipping customer for processing. The "emission control" portion of the claimed facility is used to control volatile organic compound emissions primarily, if not exclusively, in the Portland ozone maintenance area when the barges are being filled.

Eligibility This facility is portable and used in Oregon and Washington waters.

ORS 468.155 (1)(a) This equipment was not installed to meet a requirement of DEQ or EPA; therefore, it does not meet the principal purpose portion of the definition of a pollution control facility. Even though there are requirements for volatile organic compound controls in the Portland airshed, these requirements do not require the installation of vapor recovery systems on barges either directly or indirectly.

The **sole purpose** of this **new equipment** is to prevent, control or reduce a substantial quantity of air and water pollution as determined by the Environmental Quality Commission in 1995.

On December 28, 1995, the Commission determined the vapor recovery equipment for Tidewater Barge Line, Inc.'s barge, *The Pioneer,* was eligible for a pollution control tax credit. (Tax Credit Application Number 4417 – Certificate # 3549 issued 12/28/1995) Overfill protection equipment was approved as a component of the vapor recovery equipment.

ORS 468.155 (1)(b)(B) The control is accomplished by the disposal or elimination of or redesign to eliminate air contamination sources and the use of air cleaning devices as defined in ORS 468A.005

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**3/16/98**
Application Substantially Complete	**5/1/98**
Construction Started	**6/1/95**
Construction Completed	**3/27/96**
Facility Placed into Operation	**3/27/96**

Facility Cost

Facility Cost		**$237,000**
Emission Control	133,293	
Overfill Protection		
High velocity pressure vacuum relief valve	$6,900	
Overfill control and alarm system	$20,665	
Liquid overfill protection device	$30,000	
Sight glass	$10,200	
Closed guaging valve and tape	$6,612	
Automatic tank guage	$22,140	
Top 1 meter visual guage	$7,200	
Eligible Facility Cost		**$237,000**

Arthur Anderson, LLP, provided the certified public accountant's statement that the claimed cost fairly presents costs incurred by Tidewater Barge Lines, Inc. for the vapor recovery system installed during the construction of the *Propspector*. Copies of the invoice and checks issued to Zidell Marine Corporation were attached and substantiated the total cost of the barge was $4,858,120. A letter from Zidell Marine Corporation, the barge constructor, provided the installation cost of the vapor recovery system.

The Department requested a break out the cost for items which are not considered air pollution contol equipment. Zidell Marine Corporation provided the addition information on behalf of the applicant. Some of the overfill protection equipment is also used to protect the barge from imploding or exploding, filling the barge to capacity without overfilling it, and meeting Coast Guard regulations.

Facility Cost Allocable to Pollution Control

According to ORS.190 1, the facility cost exceeds $50,000; therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.1901a Salable or Usable Commodity	No salable or useable commodity.
ORS 468.1901b Return on Investment	The useful life of the facility used for the return on investment consideration is 30 years. No gross annual revenues associated with this facility.
ORS 468.1901c Alternative Methods	No alternative investigated.
ORS 468.1901d Savings or Increase in Costs	No savings or increase in costs.
ORS 468.1901e Other Relevant Factors	The "emission control" portion of the claimed facility is used to control volatile organic compound emissions primarily, if not exclusively, in the Portland ozone maintenance area when the barges are being filled. The "overfill protection" portion is used primarily when the barge is being filled.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders. There are no DEQ permits issued to this facility.

Reviewers: Dave Kauth, AQ-DEQ
Maggie Vandehey, DEQ

Tax Credit Review Report

Revised 9/30/97

Director's Recommendation: **DENY – Ineligible Facility**

Applicant	**Tidewater Barge Lines, Inc.**
Application No.	**4959**
Claimed Facility Cost	**$775,000**
Claimed Percentage Allocable	**100%**
Useful Life	**10 years**

Pollution Control Facility: Water
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a tow boat company. The applicant is the leasee of the facility and will be taking tax relief under taxpayer identification number 93-0278300. The applicant's address is:

63050 NW Old Lower River Road
Vancouver, WA 98660

The applicant is the leasee of the facility. Tidewater Barge Lines is an Oregon corporation. *The Prospector* is under lease to Tidewater from Banc One Leasing Corporation, the barge owner. A copy of the lease agreement was attached to the application as required for leased facilities.

Facility Identification

The facility is identified as:

Double hull for *The Prospector* to create a void between the cargo area and water.

The mobile facility may sometimes be located at:

Portland Harbor
Portland, OR

Technical Information

The facility is the newly constructed double hulling of the steel petroleum barge, *The Prospector*. *The Prospector's* dimensions are 272' X 18' 6" and it has the capacity of 62,500 bbls. The barge was constructed by Zidell Marine Corporation. The double hull is constructed of plate steel and steel beams that create a void between the cargo tanks and the water. Thus providing some assurance that a puncture or damage to the exterior hull will not reach the cargo tanks.

Specific requirements for double-hulled construction are outlined in the Oil Pollution Act of 1990.

Eligibility This facility is portable and used in Oregon and Washington waters.

ORS 468.155 (1)(a) The **principal purpose** of this **new installation** was not required by DEQ or EPA in order to prevent, control or reduce a substantial quantity of water pollution. The applicant claims the **sole purpose** of the facility is to prevent water pollution. The Department claims the sole purpose of double-hulling is not to control water pollution as determined by the Environmental Quality Commission on December 28, 1995.

On December 28, 1995, the Commission determined that there were a number of business reasons for double-hulling *The Pioneer* — a barge presented by Tidewater Barge Line, Inc. on application number 4417. They determined that the applicant accrued benefits from investing in the double-hulling of a barge. These reasons included the improved safety of the vessel and crew in case of grounding or collision; lowering insurance costs; meeting the requirements of the Coast Guard; and the possibility of avoiding the loss of petroleum product.

OAR-016-0025 (2)(g) Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**3/16/98**
Application Substantially Complete	**11/3/1998**
Construction Started	**6/1/95**
Construction Completed	**3/27/96**
Facility Placed into Operation	**3/27/96**

Facility Cost

Facility Cost	**$775,000**	
Salvage Value		
Government Grants		
Other Tax Credits		
Ineligible Costs	**$775,000**	
Eligible Facility Cost		**$0**

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost exceeds $50,000 and therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 30 years. No gross annual revenues associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.

DEQ permits issued to facility:

Reviewers: Margaret C. Vandehey

Tax Credit Review Report

EQC 12/11/98

Director's Recommendation:	**APPROVE**
Applicant	**Tidewater Barge Lines, Inc.**
Application No.	**4963**
Facility Cost	**$250,000**
Percentage Allocable	**100%**
Useful Life	**10 years**

Pollution Control Facility: Air/Water
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a tow boat company. The applicant is the leasee of the facility and will be taking tax relief under taxpayer identification number 93-0278300. The applicant's address is:

63050 NW Old Lower River Road
Vancouver, WA 98660

A notarized statement from the lessor, Sanwa Business Credit Corporation, authorizes Tidewater Barge Lines, Inc. to take any allowable credit on the facility. A copy of the lease agreement between Sanwa Business Credit Corporation, shipwoner, and Tidewater Barge Lines, Inc. is attached to the application as required for leased facilities.

Facility Identification

The certificate will identify the facility as:

Vapor recovery system on the *Tri-Cities Voyager* barge.

This facility is attached to a barge that is used in Oregon and Washington waters. The facility is primarily used at:

Portland Harbor
Portland, OR

Technical Information

The vapor recovery system included in the construction of the *Tri-Cities Voyager* barge eliminates the discharge of vapors from the vessel during loading of petroleum cargo and returns them to the shoreside shipping customer for processing. The "emission control" portion of the claimed facility is used to control volatile organic compound emissions primarily, if not exclusively, in the Portland ozone maintenance area when the barges are being filled.

Eligibility The barge is mobile and used in both Oregon and Washington waters.

ORS 468.155 (1)(a) This equipment was not installed to meet a requirement of DEQ or EPA; therefore, it does not meet the principal purpose portion of the definition of a pollution control facility. Even though there are requirements for volatile organic compound controls in the Portland airshed, these requirements do not require the installation of vapor recovery systems on barges either directly or indirectly.

The **sole purpose** of this **new equipment** is to prevent, control or reduce a substantial quantity of air and water pollution as determined by the Environmental Quality Commission in 1995.

On December 28, 1995, the Commission determined the vapor recovery equipment for Tidewater Barge Line, Inc.'s barge, *The Pioneer,* was eligible for a pollution control tax credit. (Tax Credit Application Number 4417 – Certificate # 3549 issued 12/28/1995) Overfill protection equipment was approved as a component of the vapor recovery equipment.

ORS 468.155 (1)(b)(B) The control is accomplished by the disposal or elimination of or redesign to eliminate air contamination sources and the use of air cleaning devices as defined in ORS 468A.005

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**3/16/98**
Application Substantially Complete	**5/1/98**
Construction Started	**6/1/95**
Construction Completed	**3/27/96**
Facility Placed into Operation	**3/27/96**

Facility Cost

Facility Cost		**$250,000**
Emissions Control	137,229	
Overfill Protection	112,771	
Eligible Facility Cost		**$250,000**

A letter from Zidell Marine Corporation, the barge constructor, provided the installation cost of the vapor recovery system. **Arthur Anderson, LLP,** provided the certified public accountant's statement that the amount of $250,000 fairly presents costs incurred by Tidewater Barge Lines, Inc. for the vapor recovery system installed during the construction of the *Tri-Cities Voyager*. Copies of the invoice and checks issued are attached substantiating the total cost of the barge was $4,858,120.04 and was paid to Zidell Marine Corporation.

Additional information requested from Tidewater Barge Corporation, Inc and provided by Zidell Marine Corporation breaks out the cost for items which are not considered air pollution contol equipment but water pollution control equipment: 8" schedule 40 pipe $3595; High velocity pressure vacuum relief valve $7120; Overfill control and alarm system $21,806; Liquid overfill protection device $32,400; Sight glass $10,560; Closed guaging valve and tape $6462; Automatic tank guage $23,376; and Top 1 meter visual guage $7452. These items are for the purpose of protecting the integrety of the barge, filling to capacity without overfilling and meeting Coast Guard regulations.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost exceeds $50,000 and therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 30 years. No gross annual revenues associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	The emission control equipment is used to control volatile orgainc compound emissions primarily, if not exclusively, in the Portland ozone maintenance area when the barges are being filled. The "overfill protection" portion is used primarily when the barge is being filled.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.
DEQ permits issued to facility: N/A

Reviewers: Dave Kauth, AQ-DEQ
Maggie Vandehey, DEQ

Tax Credit Review Report

Revised 9/30/97

Director's Recommendation: **DENY – Ineligible Facility**

Applicant	**Tidewater Barge Lines, Inc.**
Application No.	**4965**
Claimed Facility Cost	**$775,000**
Claimed Percentage Allocable	**100%**
Useful Life	**10 years**

Pollution Control Facility: Water
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation operating as a tow boat company taking tax relief under taxpayer identification number 93-0278300. The applicant is the leasee of the facility. The applicant's address is:

63050 NW Old Lower River Road
Vancouver, WA 98660

A notarized statement from the lessor, Sanwa Business Credit Corporation, authorizes Tidewater Barge Lines, Inc. to take any allowable credit on the facility. A copy of the lease agreement between Sanwa Business Credit Corporation, shipwoner, and Tidewater Barge Lines, Inc. is attached to the application as required for leased facilities.

Facility Identification

The certificate will identify the facility as:

Double hull for *The Tri-Cities Voyager* to create a void between the cargo area and water.

The facility is portable and used in Oregon and Washington waters.
located at:

Portland Harbor
Portland, OR

Technical Information

The facility is the newly constructed double hulling of the steel petroleum barge, *The Tri-Cities Voyager's* dimensions are 272' X 18' 6" and it has the capacity of 62,500 bbls. The barge was constructed by Zidell Marine Corporation. The double hull is constructed of plate steel and steel beams that create a void between the cargo tanks and the water. Thus providing some assurance that a puncture or damage to the exterior hull will not reach the cargo tanks. Specific requirements for double-hulled construction are outlined in the Oil Pollution Act of 1990.

Eligibility This facility is portable and used in Oregon and Washington waters.

ORS 468.155 (1)(a) The **principal purpose** of this **new installation** was not required by DEQ or EPA in order to prevent, control or reduce a substantial quantity of water pollution. The applicant claims the **sole purpose** of the facility is to prevent water pollution. The Department claims the sole purpose of double-hulling is not to control water pollution as determined by the Environmental Quality Commission on December 28, 1995.

On December 28, 1995, the Commission determined that there were a number of business reasons for double-hulling *The Pioneer* — a barge presented by Tidewater Barge Line, Inc. on application number 4417. They determined that the applicant accrued benefits from investing in the double-hulling of a barge. These reasons included the improved safety of the vessel and crew in case of grounding or collision; lowering insurance costs; meeting the requirements of the Coast Guard; and the possibility of avoiding the loss of petroleum product.

OAR-016-0025 (2)(g) Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

Application Received	**3/23/98**
Application Substantially Complete	**9/21/98**
Construction Started	**6/1/95**
Construction Completed	**5/13/97**
Facility Placed into Operation	**5/13/97**

Facility Cost

Facility Cost	**$775,000**
Salvage Value	$ -
Government Grants	$ -
Other Tax Credits	$ -
Insignificant Contribution (ORS 468.155(2)(d)	$ -
Ineligible Costs	**($775,000)**
Eligible Facility Cost	

Arthur Anderson, LLP, provided the certified public accountant's statement that the amount of $250,000 fairly presents costs incurred by Tidewater Barge Lines, Inc. for the vapor recovery system installed during the construction of the *Tri-Cities Voyager*. Copies of the invoice and checks issued are attached substantiating the total cost of the barge was $4,858,120.04 and was paid to Zidell Marine Corporation.

Facility Cost Allocable to Pollution Control

According to ORS.190 (1), the facility cost exceeds $50,000 and therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	No salable or useable commodity.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 30 years. No gross annual revenues associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No alternative investigated.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs.
ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.

Reviewers: Maggie Vandehey

Attachment E

Department Rejection

Tax Credit Review Report

EQC 12/11/1998

Department's Action:	**REJECT - Untimely Submittal**
Applicant	**Willamette Industries, Inc**
Application No.	**4570**
Claimed Facility Cost	**$2,596,818**
Claimed % Allocable	**100%**
Useful Life	**7 years**

Pollution Control Facility Tax Credit: Solid Waste
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C Corporation operating as a producer of linerboard and bagpaper taking tax relief under taxpayer identification number 93-0312940. The claimed facility is owned by the applicant, Willamette Industries, Inc. and leased to an independent facility operator, Far West Fibers.

The applicant's address is:

3800 First Interstate Tower
Portland, OR 97201

Facility Identification

The certificate will identify the facility as:

Ebterprise Baler (Model 16-ezrrb-200), Kraus Baler Conveyor (93KRACONV0050) Krause Sorting Conveyer (93KRACONV0050), Michigan Wheel Loader (SN L-70v61201), Mitsubishi 6Mlb Fork Trk (SNAF89A-00546), Mitsubishi 6Mlb Fork Trk(SNAF89A-00529), etc.

The facility is located at:

12820 NE Marx Street
Portland, OR 97230

Technical Information

The facility is a wastepaper collection, processing and storage facility which consists of a 50,000 square foot building including receiving, and sorting areas, sorting conveyor system, baler, baler feed conveyor system, storage area for baled material, eight space truck loading dock, and miscellaneous material handling and processing equipment.

Eligibility According to ORS 468.165 (6), failure to file a timely application as shown in the *Timeliness of Application* section below shall make the facility ineligible for tax credit certification.

ORS 468.155 (1)(a)	The **sole** purpose of this **new building, machinery and equipment** is to prevent, control or reduce a substantial quantity of solid waste.
ORS 468.155 (1)(b)(D)	The facility provides a material recovery process which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.

Timeliness of Application

The application was not submitted within the timing requirements of ORS 468.165 (6). Far West Fibers, an independent recycling company, began operations in the claimed facility on September 27, 1993, over three months before the lease was signed. The Department asserts that this is the date the construction of the facility was substantially complete.

Application Received	**12/26/1995**
Application Substantially Complete	
Construction Started	**05/01/1993**
Construction Completed	**11/27/1993**
Facility Placed into Operation	**12/31/1993**

However, the applicant claims the date of substantial completion of the facility is January 1, 1994, the date the lease was signed. The applicant claims that as the lessor of the facility and the fact that there was no lease between the independent recycling company and the applicant until January 1 1994, the date of substantial completion of the facility should be determined to be the effective date of the lease. Since this date is within two years after construction of the facility was substantially completed the applicant would have submitted a timely application.

The Department of Justice can see no legal basis for the applicant's interpretation of the statute. Therefore, the Department recommends the Environmental Quality Commission deny this application.

Facility Cost

	$2,596,818
Salvage Value	$ -
Government Grants	$ -
Other Tax Credits	$ -
Insignificant Contribution (ORS 468.155(2)(d)	$ -
Ineligible Costs	**- $2,596,818**
Eligible Facility Cost	**$0**

Facility Cost Allocable to Pollution Control

The facility as claimed on the application does not meet the definition of a facility integral to operation of the applicant business based on the four factors listed in OAR 340-16-030(1)(g).

According to ORS.190 (1), the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	The facility is used exclusively to process recyclable material. The percent allocable by using this factor is 100%.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility is 7 years. Since the facility lease is for 20 years and the use of the facility to the applicant is as a leased property the Department recommends that the useful life of the facility be set at 20 years. However, the lease payments from the claimed facility do not have a significant impact on the income of the applicant's business. The average annual cash flow for the facility is determined by the fixed rate in the facility lease. The average annual income from this lease is $135,000. The lease payment includes office and other space not included in the claimed facility. The portion of the lease payment allocable to the claimed facility is correctly stated as 93% or $125,550. This cash flow and the claimed facility cost result in a return on investment factor of 20.68. By using Table 1 in OAR 340, Division 16, a $2,596,818 facility with a useful life of 20 years and an average annual cash flow of $125,550 results in a return on investment of 0% and therefore 100% of the facility cost is properly allocable to pollution control.
ORS 468.190(1)(c) Alternative Methods	The applicant considered other methods for reducing solid waste and determined that this method was environmentally acceptable and economically feasible. It is the Department's determination that the claimed facility is an acceptable method of achieving the material recovery objective.
ORS 468.190(1)(d) Savings or Increase in Costs	No savings or increase in costs. Material generated from this facility is sold to the applicant or other users at fair market value.

ORS 468.190(1)(e) Other Relevant Factors	No other relevant factors.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance

The facility is in compliance with Department rules and statutes and with EQC orders.

Reviewers: William R Bree, DEQ
M.C.Vandehey, DEQ
Larry Knudsen, Department of Justice

Rejected by the Department
Untimely Response

Tax Credit Review Report

EQC 12/11/1998

Applicant	**Willamette Industries, Inc.**
Application No.	**4800**
Claimed Facility Cost	**$110,418**
Claimed Percentage Allocable	**100%**
Useful Life	**7 years**

Pollution Control Facility: Water
Final Certification
ORS 468.150 -- 468.190
OAR 340-016-0005 -- 340-016-0050

Applicant Identification

The applicant is a C corporation that operates a particleboard manufacturing plant in Albany, Oregon, and is taking tax relief under taxpayer identification number 93-0312940. The applicant is the owner of the facility. The applicant's address is:

Duraflake Division
1300 S.W. Fifth Avenue, Suite 3800
Portland, OR 97201

Facility Identification

The certificate will identify the facility as:

Negative air and screening system

The facility is located at:

2550 Old Salem Road NE
Albany, OR 97321

Technical Information

This application is for an 80,000 cfm negative air and screening system installed to capture emissions at the truck doorway in the truck dump area. The system consists of a 10' x 42' air hood and a negative air knife, and ducting. The system is installed above the extended door opening and the duct routes the dusty air from the air hood to the inlet of the #1 and #2 green refiners. The system includes two Siemens 200 Hp fan motors installed to handle the increased load on the fan system.

This system reduces fugitive emissions that would otherwise be released into the atmosphere by approximately 50%. The exact quantity of particulate has not been measured; the estimate is based on the expected performance of the system.

This is an effective system design for capturing fugitive emissions.

Eligibility

ORS 468.155 (1)(a) The **principal** purpose of this **new negative air and screening system equipment and installation** is to prevent, control or reduce a substantial quantity of air pollution.
Mutual Agreement and Order No. AQP-WR-94-331 between the DEQ and Willamette Industries required this system be operational on or before March 1, 1996.

ORS 468.155 (1)(b)(B) The disposal or elimination of or redesign to eliminate air contamination sources and the use of air cleaning devices as defined in ORS 468A.005

Timeliness of Application

The application was submitted within the timing requirements of ORS 468.165 (6).

The applicant did not respond to the reviewer's request for additional information by April 11, 1998; 180 days from the date the information was requested. The applicant did not request in writing additional time to submit the information.

Application Received	**7/21/97**
Additional Information Requested	**10/13/97**
Additional Information Provided	**6/5/98**
Application Substantially Complete	**6/8/98**
Construction Started	**5/1/95**
Construction Completed	**10/31/95**
Facility Placed into Operation	**10/31/95**

If the Department determines the application is incomplete for processing and the applicant fails to submit requested information within 180 days of the date when the Department requested the information, the application will be rejected by the Department unless applicant requests in writing additional time to submit requested information; OAR 340-016-0020(h). Hist.: ...DEQ 6-1990, f. & cert. ef. 3-13-90

Facility Cost

Facility Cost	**$ 110,418**
Salvage Value	$ - 0
Government Grants	$ - 0
Other Tax Credits	$ - 0
Ineligible Costs	$ - 0
Eligible Facility Cost	

Copies of invoices were provided which substantiated most of the cost of the facility. Invoices were not provided for site preparation/installation ($2,774) and for electrical materials and installation ($1994). KPMG Peat Marwick LLP provided the certified public accountant's statement.

Facility Cost Allocable to Pollution Control

According to ORS 468.190(1), the facility cost exceeds $50,000 and therefore, the following factors were used to determine the percentage of the facility cost allocable to pollution control.

Factor	Applied to This Facility
ORS 468.190(1)(a) Salable or Usable Commodity	The applicant does not receive income from the captured emissions, it reduces their loss of product.
ORS 468.190(1)(b) Return on Investment	The useful life of the facility used for the return on investment consideration is 7 years. No gross annual revenues are associated with this facility.
ORS 468.190(1)(c) Alternative Methods	No other alternatives were considered.
ORS 468.190(1)(d) Savings or Increase in Costs	There are no savings or increase in costs from the facility.
ORS 468.190(1)(e) Other Relevant Factors	The duct system is located outdoors; it is not part of a ventilation system.

Considering these factors, the percentage allocable to pollution control is 100%.

Compliance/Other Tax Credits

The facility complies with Department statutes and permit requirements. DEQ permits issued to facility: NPDES No. 100668, May 4, 1990.

Reviewers: Lois L. Payne, SJO Consulting Engineers, Inc.
Dennis E. Cartier, Associate, SJO Consulting Engineers, Inc.
Maggie Vandehey, DEQ

Attachment F

Certificate Transfers

DEPARTMENT OF ENVIRONMENTAL QUALITY
UST POLLUTION CONTROL TAX CREDIT PROGRAM

REQUEST FOR TRANSFER OF TAX CREDIT

Please provide information asked for below and attach a copy of your tax credit certificate.

Tax Credit Certificate No. 3243 Tax Credit Application No. 4126

Name and address of current tax credit holder:

Name Minimart of Vernonia

Address Harold L. Settje
490 Bridge St.
Vernonia OR 97064

Name and address to transfer tax credit to:

Name Bridge Street Mini Mart

Address Matthew L. Carlough
490 Bridge Street
Vernonia, OR 97064

Signature of current tax credit holder X

Date of signature 10-27-98

PHONE NO. OF PERSON DEQ MAY CONTACT REGARDING THIS REQUEST: (503) 728-2035

STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY

POLLUTION CONTROL FACILITY CERTIFICATE

Certificate No: 3243
Date of Issue: 12/10/93
Application No: T-4126

ISSUED TO:
Minimart of Vernonia
Garold J. Settje
490 Bridge Street
Vernonia, OR 97064

ATTENTION: Garold J. Settje

LOCATION OF POLLUTION CONTROL FACILITY:
490 Bridge Street
Vernonia
fac. 5648

AS: ( ) LESSEE (X) OWNER (X) INDIV ( ) PARTNER ( ) CORP ( ) NON-PROFIT ( ) CO-OP

DESCRIPTION OF POLLUTION CONTROL FACILITY:
Three composite (Buffhide) tanks and doublewall fiberglass piping, spill containment basins, tank gauge system, sumps, automatic shutoff valves, Stage I vapor recovery and Stage II vapor recovery piping.

TYPE OF POLLUTION CONTROL FACILITY:
( ) AIR ( ) NOISE (X) WATER ( ) SOLID WASTE ( ) HAZARDOUS WASTE ( ) USED OIL

DATE FACILITY COMPLETED: 12/15/91 PLACED INTO OPERATION: 12/15/91

ACTUAL COST OF POLLUTION CONTROL FACILITY: $88,337.00

PERCENT OF ACTUAL COST PROPERLY ALLOCABLE TO POLLUTION CONTROL: 89%

Based upon the information contained in the application referenced above, the Environmental Quality Commission certifies that the facility described herein was erected, constructed or installed in accordance with the requirements of subsection (1) of ORS 468.165, and is designed for, and is being operated or will operate to a substantial extent for the purpose of preventing, controlling or reducing air, water or noise pollution or solid waste, hazardous wastes or used oil, and that it is necessary to satisfy the intents and purposes of ORS Chapters 454, 459, 467 and 468 and rules adopted thereunder.

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

1. The facility shall be continuously operated at maximum efficiency for the designed purpose of preventing, controlling, and reducing the type of pollution as indicated above.
2. The Department of Environmental Quality shall be immediately notified of any proposed change in use or method of operation of the facility and if, for any reason, the facility ceases to operate for its intended pollution control purpose.
3. Any reports or monitoring data requested by the Department of Environmental Quality shall be promptly provided.

NOTE: The facility described herein is not eligible to receive tax credit certification as an Energy Conservation Facility under the provisions of Chapter 512, Oregon Law 1979, if the person issued the Certificate elects to take the tax credit relief under ORS 316.097 or 317.072.

Signed: William W. Wessinger (William W. Wessinger, Chairman)

Approved by the Environmental Quality Commission on the 10th day of December, 1993.

Staff: Barbara Anderson/UST
PCFCERT.MSD (08/92)

Attachment G

Certificate Reissues

STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECLAIMED PLASTIC TAX CREDIT CERTIFICATE

Certificate No: **3965**
Date of Issue: 09/17/1998
Application No: 4911

ISSUED TO: **WWDD Partnership**
230 NW 10th
Portland, OR 97209

ATTENTION: Dick Winn, CFO

LOCATION:
4427 NE 158th
Portland, OR 97230

Operating as an owner of the investment. A partnership.

DESCRIPTION OF INVESTMENT: **Two Zebra bar code systems, printers, scanners and one Compac computer.**

TYPE OF INVESTMENT: Plastics

DATE OF INVESTMENT: 2/1/98

ACTUAL COST: **$11,500.00**

PERCENT OF ACTUAL COST PROPERLY ALLOCABLE TO COLLECTING, TRANSPORTING, OR PROCESSING RECLAIMED PLASTIC OR TO THE MAUFACTURE OF A RECLAIMED PLASTIC PRODUCT: **100%**

Based upon the information contained in the application referenced above, the Environmental Quality Commission certifies that the investment described herein was made for the purpose of the prevention, control and reduction of solid waste in Oregon, and, in accordance with the requirements of ORS 468.461 and ORS 468.471, satisfies the intents and purposes of ORS Chapters 459, 468 and rules adopted thereunder.

Therefore, this Reclaimed Plastic Tax Credit Certificate is issued this date subject to compliance with the statutes of the State of Oregon, the regulations of the Department of Environmental Quality and the following special conditions:

1. The qualifying business shall be continuously operated for the purpose of the collection, transport, or processing of reclaimed plastic or manufacture of a reclaimed plastic product as indicated above.

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

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

NOTE: No credit is allowed under this certificate for any portion of this facility for which the tax payer claims a tax credit or ad valorum relief as a pollution control facility or an energy conservation facility. [ORS 315.324(12)].

Signed: Carol A. Whipple (Carol Whipple, Chair)

Approved by the Environmental Quality Commission on 09/17/1998.

STATE OF OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY **RECLAIMED PLASTIC TAX CREDIT CERTIFICATE**	Certificate No: **3971** Date of Issue: 09/17/1998 Application No: 4969

ISSUED TO: **Denton Plastics, Inc.** 4427 NE 158th Portland, OR 97230 ATTENTION: Denton Plastics, Inc.,	LOCATION: 4427 NE 158th Portland, OR 97230

Operating as the owner – A "C" corporation.

DESCRIPTION OF INVESTMENT: **Hyster Challenger Lift truck Model H30XM- Serial Number D001H04264V.**

TYPE OF INVESTMENT: Plastics

DATE OF INVESTMENT: 3/1/98

ACTUAL COST: **$18,620.00**

PERCENT OF ACTUAL COST PROPERLY ALLOCABLE TO COLLECTING, TRANSPORTING, OR PROCESSING RECLAIMED PLASTIC OR TO THE MAUFACTURE OF A RECLAIMED PLASTIC PRODUCT: **100%**

Based upon the information contained in the application referenced above, the Environmental Quality Commission certifies that the investment described herein was made for the purpose of the prevention, control and reduction of solid waste in Oregon, and, in accordance with the requirements of ORS 468.461 and ORS 468.471, satisfies the intents and purposes of ORS Chapters 459, 468 and rules adopted thereunder.

Therefore, this Reclaimed Plastic Tax Credit Certificate is issued this date subject to compliance with the statutes of the State of Oregon, the regulations of the Department of Environmental Quality and the following special conditions:

1. The qualifying business shall be continuously operated for the purpose of the collection, transport, or processing of reclaimed plastic or manufacture of a reclaimed plastic product as indicated above.

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

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

NOTE: No credit is allowed under this certificate for any portion of this facility for which the tax payer claims a tax credit or ad valorum relief as a pollution control facility or an energy conservation facility. [ORS 315.324(12)].

Signed: Carol A. Whipple (Carol Whipple, Chair)

Approved by the Environmental Quality Commission on 09/17/1998.

STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECLAIMED PLASTIC TAX CREDIT CERTIFICATE

Certificate No: **3975**
Date of Issue: 09/17/1998
Application No: 4997

ISSUED TO: **Denton Plastics, Inc.** 4427 NE 158th Portland, OR 97230 ATTENTION: Denton Plastics, Inc.,	LOCATION: 4427 NE 158th Portland, OR 97230

Operating as the owner – A "C" corporation.

DESCRIPTION OF INVESTMENT: **Two 1986 Frauhauf 48-foot van-trailers.**

TYPE OF INVESTMENT: Plastics

DATE OF INVESTMENT: 5/1/98

ACTUAL COST: **$10,000.00**

PERCENT OF ACTUAL COST PROPERLY ALLOCABLE TO COLLECTING, TRANSPORTING, OR PROCESSING RECLAIMED PLASTIC OR TO THE MAUFACTURE OF A RECLAIMED PLASTIC PRODUCT: **100%**

Based upon the information contained in the application referenced above, the Environmental Quality Commission certifies that the investment described herein was made for the purpose of the prevention, control and reduction of solid waste in Oregon, and, in accordance with the requirements of ORS 468.461 and ORS 468.471, satisfies the intents and purposes of ORS Chapters 459, 468 and rules adopted thereunder.

Therefore, this Reclaimed Plastic Tax Credit Certificate is issued this date subject to compliance with the statutes of the State of Oregon, the regulations of the Department of Environmental Quality and the following special conditions:

1. The qualifying business shall be continuously operated for the purpose of the collection, transport, or processing of reclaimed plastic or manufacture of a reclaimed plastic product as indicated above.

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

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

NOTE: No credit is allowed under this certificate for any portion of this facility for which the tax payer claims a tax credit or ad valorum relief as a pollution control facility or an energy conservation facility. [ORS 315.324(12)].

Signed: Carol A. Whipple (Carol Whipple, Chair)

Approved by the Environmental Quality Commission on 09/17/1998.

RECEIVED
OCT 21 1998

10/20/98

Mr. Bill Bree
Department of Waste Management
DEQ
811 S.W. 6th
Portland, Oregon

Dear Bill:

We recently received 4 tax credit certificates, 3965,3966,3971,and 3975. I need to have you change the "issue to" on three of them. 3965 should be issued to Denton Plastics, 3971 and 3975 to WWDD. 3966 is OK. Hope this doesn't cause any problems. I had faxed a letter in July to this effect but possibly it did not get to you. Let me know if any questions.

Dick Winn
Denton and WWDD
257-9945

Environmental Quality Commission

☒ Rule Adoption Item
☐ Action Item
☐ Information Item

Agenda Item E
December 11, 1998 EQC Meeting

Title:

Heating Oil Tank Decommissioning Grant Rules

Summary:

The Department is proposing to revise the Heating Oil Tank rules to implement S.B. 1143, which includes provisions for grants to homeowners who voluntarily decommission an underground heating oil tank. Grant amounts are based on annual income: less than $35,000 - grant amount is $750; $35,000 to $75,000 - grant amount is $500; and greater than $75,000 - grant amount is $250.

The funding for this program was based on a fee on oil marketers of 2.865 percent of gross revenue, which would provide funding for approximately 2,000 grants to homeowners per year, and fund Department staff to provide technical assistance to homeowners at no cost, including review and approval of cleanup projects. The Oil Heat Commission (OHC) has not acted to implement the fee, so no state funding has been provided.

The Department has received a $112,500 grant from the US Department of Energy under the Stripper Well Settlement Agreement to be applied to low income households. This rulemaking would provide the process necessary for the Department to disburse approximately 150 grants of $750 to low income homeowners on the OHC's list of claimants who did not receive any funds from the OHC.

Department Recommendation:

It is recommended that the Commission adopt the proposed amendments and additions to the Heating Oil Tank rules (OAR 340-177-0001 through 340-177-0080) as presented in Attachment A of the Department's Staff Report.

Report Author	Division Administrator	Director
Laurie J. McCulloch	Mary Wahl	Langdon Marsh

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

To: Environmental Quality Commission **Date:** November 18, 1998

From: Langdon Marsh

Subject: Agenda Item E, Heating Oil Tank Decommissioning Grant Rules, December 11, 1998 EQC Meeting

Background

On September 14, 1998, the Director authorized the Waste Management & Cleanup Division to proceed to a rulemaking hearing on proposed rules which would provide grants in the amount $250, $500, or $750 to homeowners who voluntarily decommission an underground heating oil tank.

Pursuant to the authorization, hearing notice was published in the Secretary of State's Bulletin on October 1, 1998. The Hearing Notice and informational materials were 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 October 1, 1998.

Four Public Hearings were held on October 21 and 22, 1998. [Nancy Couch, Jim Glass, and Karen White-Fallon served as Presiding Officers. Written comment was received through 5:00 pm on October 30, 1998.] The Presiding Officer's Report (Attachment C) summarizes the oral testimony presented at the hearing and lists all the written comments received. (A copy of the comments is available upon request.)

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.

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

Issue this Proposed Rulemaking Action is Intended to Address

The 1997 Legislature approved S.B. 1143, which includes provisions for grants to homeowners who voluntarily decommission an underground heating oil tank. Grant amounts are based on annual income: less than $35,000 - grant amount is $750; $35,000 to $75,000 - grant amount is $500; and greater than $75,000 - grant amount is $250. The homeowner's income (property owner, not the occupant) is used for the income tiers. The funding for this program was based on a fee on oil marketers of 2.865 percent of gross revenue, which would provide funding for approximately 2,000 grants to homeowners per year, and fund Department staff to provide technical assistance to homeowners at no cost, including review and approval of cleanup projects.

The Oil Heat Commission (OHC) has not acted to implement the fee, so no state funding has been provided. The Department has received a $112,500 grant from the US Department of Energy under the Stripper Well Settlement Agreement to be applied to low income households. This rulemaking would provide the process necessary for the Department to provide approximately 150 grants of $750 to low income homeowners on the OHC's list of claimants who did not receive any funds from the OHC.

Relationship to Federal and Adjacent State Rules

There are no federal regulations related to the decommissioning of heating oil tanks, nor are there any federal financial assistance programs.

Authority to Address the Issue

The Department has the authority to address this issue by ORS 466.850 to 466.870.

Process for Development of the Rulemaking Proposal (including Advisory Committee and alternatives considered)

On September 18, 1998, a rule review work group met in a work session to review the draft rules and provide input and comments. Rules were drafted by staff based on specific statutory requirements. This group made several recommendations on the proposed draft rules. As the members did not reach consensus on certain issues, rules as drafted by staff were mailed to interested parties, with a fact sheet soliciting comments on areas suggested by the work group.

Summary of Rulemaking Proposal Presented for Public Hearing and Discussion of Significant Issues Involved.

The proposal presented for public hearings included a thorough overview of each of the specific requirements. In addition, areas where the work group recommended changes were noted verbally. Although there was no formal oral testimony, attendees all believed that additional funding should be provided.

Summary of Significant Public Comment and Changes Proposed in Response

As a result of recommendations by the work group and written comments received, the Department proposes the following significant changes:

- Annual income for homeowners would be based on federal tax returns and the tank would be the qualifier (i.e. residential heating oil tank) instead of the term "household" as used in the draft. These changes would allow Oregon property owners living out-of-state to apply and potentially qualify for a grant, as well as owners of more than one property with an underground heating oil tank. The work group felt this would better reflect the goal of encouraging the removal of unused heating oil tanks, and therefore a limitation to "owner-occupied" households or to Oregon residence would be too restrictive. Occupants of a home who are not the property owner (i.e. renters) are not eligible for this program.

- Requirement for soil testing as part of the grant eligibility. The work group was divided on this issue, with some believing testing should be required and some believing it should not. Staff believe that from an environmental point of view, not testing the soil for potential contamination or as confirmation that no contamination exists is poor practice. Even if the Department does not require sampling as a grant eligibility requirement, many home buyers may be reluctant to purchase property where potential environmental issues are unknown. However, because this was a controversial issue within the work group and current funds are limited to only 150 grants, the Department recommends as a compromise for this rulemaking that the requirement for sampling be optional for this current funding source only. This change could be accomplished with just a minor wording change to the current provision that allows the DEQ to approve grant applications that do not meet all of the existing requirements. The Department will review mandatory sampling as a grant requirement at a later date as necessary.

Summary of How the Proposed Rule Will Work and How it Will be Implemented

Guidance for homeowners will be developed through grant applications and information on how to file a deed notice if required. Staff will draft suggested wording for homeowners to use when filing this notice with county officials.

In early January, 1999, applications will be mailed to all homeowners on the Oil Heat Commission's (OHC) list of non-funded claimants. At that time, an informational fact sheet will be mailed to all other potential applicants. If all 150 grants to low income households are not issued to low income OHC claimants by March 1, 1999, applications will be mailed and accepted for non-OHC low income applicants. It is expected that all 150 grants will be awarded by June 30, 1999. If funds are still available then, the last group of potentially eligible applicants is non-funded OHC claimants of any income level.

Recommendation for Commission Action

Staff recommends that the Commission adopt the rules regarding Heating Oil Tank Decommissioning Grants as presented in Attachment A of the Department Staff Report.

Attachments

A. Rule (Amendments) Proposed for Adoption
B. Supporting Procedural Documentation:
   1. Legal Notice of Hearing
   2. Fiscal and Economic Impact Statement
   3. Land Use Evaluation Statement
   4. Questions to be Answered to Reveal Potential Justification for Differing from Federal Requirements
   5. Cover Memorandum from Public Notice
C. Presiding Officer's Report on Public Hearing
D. Department's Evaluation of Public Comment
E. Detailed Changes to Original Rulemaking Proposal made in Response to Public Comment
F. Advisory Committee Membership and Report
G. Rule Implementation Plan

Reference Documents (available upon request)

Written Comments Received (listed in Attachment C)

Approved:
Section: Michael H. Kortenhof

Division: Mary Wahl

Report Prepared By: Laurie McCulloch

Phone: 503-229-5769

Date Prepared: November 18, 1998

DIVISION 177

RESIDENTIAL HEATING OIL UNDERGROUND STORAGE TANKS

Purpose and Scope

340-177-0001 (1) This Division specifies requirements for the remediation of releases of petroleum from underground residential heating oil tanks and for the disbursement of grants to property owners (homeowners) who voluntarily decommission an unused residential heating oil tank.

(2) These rules do not apply to a release from an underground heating oil tank used for non-residential purposes or from an above-ground heating oil tank, unless the Department makes a determination on a case-by-case basis that the conditions of the release are similar to those for a residential heating oil tank and that application of these rules is appropriate.

Stat. Auth.: ORS 465.200 - 465.320 and ORS 466.850 - 466.870
Stats. Implemented: ORS 465.400, 465.405, 466.855 and 466.870
Hist.: New

Definitions

340-177-0005 As used in this Division, the following definitions apply:

(1) "Above-Ground Release" means any release to the land surface or to surface water from the above-ground portion of a residential heating oil tank system and releases associated with overfills and transfer operations during heating oil deliveries to or dispensing from a residential heating oil tank system.

(2) "Below-Ground Release" means any release to the land subsurface having concentrations detected by the Northwest Total Petroleum Hydrocarbon Identification Analytical Method (NWTPH-HCID, DEQ, December 1996), or analytical results of 50 mg/kg or greater for Diesel/Lube Oil Range Hydrocarbons by Method NWTPH-Dx (DEQ, December, 1996), or any release to groundwater having concentrations detected by any appropriate analytical method specified in OAR 340-122-0218. This includes but is not limited to releases from the below-ground portion of a residential heating oil tank and releases to the land subsurface or groundwater associated with overfills and transfer operations as the heating oil is delivered to or dispensed from a residential heating oil tank system.

(3) "Confirmed Release" means petroleum contamination observed in soil or groundwater as a sheen, stain, or petroleum odor, or petroleum contamination detected in soil by the Northwest Total Petroleum Hydrocarbon Identification Analytical Method (NWTPH-HCID, DEQ, December 1996), or analytical results of 50 mg/kg or greater for Diesel/Lube Oil Range Hydrocarbons by Method NWTPH-Dx (DEQ, December, 1996), or detected in groundwater having concentrations detected by any appropriate analytical method specified in OAR 340-122-0218.

(4) "Decommissioning" or "Removal" means to remove an underground storage tank from operation by abandonment in place (e.g. cleaning and filling with an inert material) or by removal from the ground.

(5) "Department" means the Oregon Department of Environmental Quality.

(6) "Excavation Zone" means an area containing a residential heating oil tank system and backfill material bounded by the ground surface, walls, and floor of the pit and trenches into which the residential heating oil tank system is placed at the time of installation.

(7) "Free Product" means petroleum in the non-aqueous phase (e.g., liquid not dissolved in water).

(8) "Heating Oil" means petroleum that is No. 1, No. 2, No. 4-Heavy, No. 5-Light, No. 5-Heavy, or No. 6-Technical grades of fuel oil; other residual fuel oils (including Navy Special Fuel Oil and Bunker C); or other fuels when used as substitutes for one of these fuel oils.

(9) "Heating Oil Tank" means any one or combination of underground tanks and above-ground or underground pipes connected to the tank, which is used to contain heating oil used for space heating a building with human habitation, or water heating not used for commercial processing.

~~(10) "Household" means an owner-occupied, single-family, residential dwelling used for human habitation, but does not include a residential dwelling owned by a government agency.~~

(1~~0~~) "Household Income" means the combined total gross annual income of all persons shown in the county deed records as owners of the property where a residential heating oil tank has been or will be decommissioned. The annual period is for the most recent tax year that complete tax forms are available, in reference to both the date of tank decommissioning and date of grant application.

(11 ~~10~~) "Petroleum" means gasoline, crude oil, fuel oil, diesel oil, lubricating oil, oil sludge, oil refuse, and crude oil fractions and refined petroleum fractions, including gasoline, kerosene, heating oils, diesel fuels, and any other petroleum-related product or waste or fraction thereof that is liquid at a temperature of 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute. "Petroleum" does not include any substance identified as a hazardous waste under 40 CFR Part 261.

(12 ~~11~~) "Remediation" or "Remedial Measures" means "Remedial Action" as defined in ORS 465.200(22) and "Removal" as defined by ORS 465.200(24).

(13 ~~12~~) "Residential Heating Oil Tank" is a heating oil tank located on property used primarily for single-family dwelling purposes.

(14 ~~13~~) "Responsible Person" means "owner or operator" as defined in ORS 465.200(19) and any other person liable for or voluntarily undertaking remediation under ORS 465.200.

(15 ~~14~~) "Service Provider" means an individual or firm licensed by the Department to perform Matrix Cleanup services in Oregon who is hired by a person responsible for a residential heating oil tank to provide such services.

Stat. Auth.: ORS 465.200 - 465.420 and ORS 466.850 - 466.870
Stats. Implemented: ORS 465.200, 465.400, 466.855 and 466.870
Hist.: New

Decommissioning Grants, General Conditions

340-177-0050 (1) Any person owning property where a residential heating oil tank is located may be eligible for a heating oil tank decommissioning grant pursuant to OAR 340-177-0060 upon meeting the provisions of OAR 340-177-0070.

(2) The heating oil tank decommissioning work must have been performed after October 4, 1997.

(3) Any person awarded a grant for a residential heating oil tank that was decommissioned by filling in-place must record a deed notice of the presence of the tank in the property deed in the county of record. Documentation of the recording must be submitted to the Department, in accordance with county requirements or on a form provided by the Department, before actual grant disbursement.

Stat. Auth.: ORS 466.850 - 466.870
Stats. Implemented: ORS 466.870
Hist.: New

Decommissioning Grants, Grant Amounts

340-177-0060 (1) Subject to subsections 2 and 3 of this section, the Department will award heating oil tank decommissioning grants in the following amounts:

(a) for annual household income less than $35,000 the grant amount is $750;

(b) for annual household income between $35,000 and $75,000 the grant amount is $500; and

(c) for annual household income more than $75,000 the grant amount is $250.

(2) Subject to subsection 3 of this section, the Department will award decommissioning grants on a first-come, first-served basis, within a reasonable time for application approval and check issuance, dependent upon receipt of a complete application pursuant to OAR 340-177-0070 and according to the following priority:

(a) Until March 1, 1999 to low income (less than $35,000 annually) qualifying property owners who were non-funded Oil Heat Commission claimants;

(b) From March 1, 1999 to June 30, 1999 to any low income (less than $35,000 annually) qualifying property owners;

(c) From July 1, 1999 to September 30, 1999 to any qualifying property owners who were non-funded Oil Heat Commission claimants; and

(d) After October 1, 1999 to any qualifying property owners.

(3) The Department is obligated to pay grants only to the extent that it has received moneys and spending authority for heating oil tank decommissioning grants. Neither the Department nor the State of Oregon may incur any obligation or liability to pay heating oil tank decommissioning grants beyond moneys specifically allocated and authorized by the Legislative Assembly or Emergency Board for this express purpose.

(4) The Department may waive the priority schedule in subsection 2 of this section if sufficient funds are available to award grants in proportion to the number of actual or projected applications.

(5) The Department may pre-approve applicants for basic eligibility requirements if sufficient funds are available to make this provision feasible.

(a) Pre-approved status expires 60 days after date of issuance by the Department.

(6) The Department will promptly notify grant applicants of any additional information needed to process their application. The Department will notify applicants in writing if the provisions of OAR 340-177-0070 are not met or if there are other conditions impacting application status (e.g. ineligible, on hold pending additional information, etc.).

Stat. Auth.: ORS 466.850 - 466.870
Stats. Implemented: ORS 466.855 and 466.870
Hist.: New

Decommissioning Grants, Eligibility Requirements and Conditions

340-177-0070 (1) –To receive a heating oil tank decommissioning grant, eligible property owners may submit an application on a form provided by the Department. Each applicant must provide the following information, unless otherwise directed by the Department:

(a) The name, mailing address and phone number of the owner (s) of the household;

(b) Social security number and full name of the grant applicant to whom a check will be issued;

(c) To receive priority consideration pursuant to OAR 340-177-0060(2)(a) or (c), the Oil Heat Commission claim number must be provided, and this number must correspond to any lists of non-funded claims provided by the Oil Heat Commission to the Department;

(d) Evidence of annual household income as defined by OAR 340-177-0005 (10) by providing either:

(A) A copy of the Federal Income Tax Return(s) (page 1 and 2 of Form 1040 or equivalent without attachments) that shows the total household income for all owners of the property where the residential heating oil tank was/is located, or

(B) For a property owner not required to file a Federal Income Tax Return, a signed statement of that owner's total annual household income;

(e) A copy of a decommissioning report that meets the provisions of OAR 340-177-0080 that includes documentation that decommissioning work was performed after October 4, 1997; and

(f) If the heating oil tank was decommissioned in-place, a copy of the recorded deed notice in accordance with OAR 340-177-0050 (3).

Stat. Auth.: ORS 466.850 - 466.870
Stats. Implemented: ORS 466.870
Hist.: New

Decommissioning Grant Reports, Conditions and Requirements

340-177-0080 (1) Except as otherwise provided in subsections (2) and (3) of this section, to be eligible for a heating oil tank decommissioning grant, an applicant must submit a decommissioning report, either as a narrative report or on a form provided by the Department that includes the following:

(a) A statement that the work was performed by the tank owner or the name and license number of the Service Provider and Supervisor that performed the work;

(b) Copies of disposal receipts for any heating oil, sludge or other liquids or solids that were removed from inside the tank;

(c) If the tank was removed from the site, copies of disposal receipts for the heating oil tank, or if the tank was filled in place, a description of the material that was used to fill the tank;

(d) Results of a site assessment to determine the presence or absence of soil or groundwater contamination. The site assessment must include, at a minimum:

(A) Two soil samples, one collected from each end of the tank, unless otherwise approved by the Department. Each sample must be at least at the depth of the bottom of the tank, but no more than two feet below the bottom of the tank. If there are obvious areas of contamination based on visual observations or odors, samples must be collected from these areas of

contamination. The samples must be collected in accordance with OAR 340-122-0340 and 340-122-0345 and analyzed for Diesel/Lube Oil Range Hydrocarbons by Method NWTPH-Dx (DEQ, December, 1996) in accordance with OAR 340-122-0218, and

(B) If groundwater is encountered in the soil borings or the tank excavation, a water sample must be collected. The sample must be collected in accordance with OAR 340-122-0340 and 340-122-0345 and analyzed for BTEX and PAHs in accordance with OAR 340-122-0218; and

(c) If levels of contamination exceed confirmed release levels as defined in OAR 340-177-0005 (3), documentation that a release report was filed with the Department pursuant to OAR 340-177-0110 (1) (c).

(2) If a confirmed release has occurred, the remediation report required by OAR 340-177-0110 (5) may be substituted in lieu of OAR 340-177-0080 (1).

(3) The Department may waive one or more of the provisions of subsection (1) of this section for decommissioning work completed between October 4, 1997 and the effective date of these rules or as otherwise determined appropriate by the Department.

Stat. Auth.: ORS 466.850 - 466.870
Stats. Implemented: ORS 466.870
Hist.: New

Remediation and Reporting Requirements

340-177-0110 (1) Within 72-hours after a confirmed release from a residential heating oil tank is identified, the responsible person or service provider must take the following initial abatement actions for any release which has or may result in a sheen on surface water or groundwater, any below-ground release, any above-ground release in excess of 25 gallons, or any above-ground release of less than 25 gallons if the responsible person is unable to contain or clean up the release within 24 hours:

(a)—Take immediate action to prevent any further release of heating oil into the environment;

(b)–Identify and mitigate any fire or safety hazards posed by vapors or free product, and;

(c)—Report the release to the Department by telephone.—The Department will issue a "site identification or log number" for each release, which will serve as confirmation of reporting.

(2)—If groundwater is encountered at any time during release identification or remediation, or if any fire or safety hazards are posed by vapors or free product that has migrated from the excavation zone, the Department must be notified immediately.—The Department may require that additional investigation or remediation be conducted before proceeding further with the requirements of OAR 340-177-0110(3) and (4).—Any free product observed must be removed in accordance with the requirements of OAR 340-122-0235;

(3)–The following actions must be taken for each release:

(a) Remove as much of the product as possible from the residential heating oil tank to prevent further release to the environment;

(b)—Conduct a visual inspection of any above-ground release(s) or exposed below-ground release(s) and take actions necessary to prevent any further migration of the heating oil into surrounding soils and groundwater;

(c)–Remedy any hazards posed by contaminated soils that are excavated or exposed as a result of release confirmation, site investigation, abatement, or remediation.—If remediation includes treatment or disposal of contaminated soils, the responsible person and service provider must comply with all applicable state and local requirements. Excavated contaminated soil cannot be stored on-site unless the Department approves on-site treatment or storage.

(d) Measure for the presence of a release where contamination is most likely to be found at the residential heating oil tank site. In selecting sample types, sample locations, and measurement methods, the responsible person or service provider must consider the nature of the stored substance, the type of back-fill material that is present, depth to groundwater, and other factors as appropriate for identifying the presence and source of the release;

(4) Within forty-five days after the date a release from a residential heating oil tank is reported to the Department, the responsible person or service provider must submit a written initial remediation report to the Department, if groundwater is encountered at any time during remediation or during tank investigation, if any fire or safety hazards posed by vapors or free product have not yet been eliminated, or if remediation at the site is not expected to begin until after forty-five days from the date the release is reported.

(a) The written report may be a narrative report or on a form provided by the Department, that adequately describes any and all actions taken in accordance with section (3) of this rule;

(b) The amount in gallons of heating oil removed and the name of the disposal or reuse location must be included in the report, and;

(c) If remediation has not been initiated within the first forty-five days after the release is discovered, a proposed schedule for remediation of the release must be included in the report.

(5) Within sixty days of completing remediation at a residential heating oil tank release site or within another longer period of time approved by the Department, the responsible person or service provider must submit to the Department, as a narrative report or on a form provided by the Department, a final remediation report, which includes, as a minimum, the following information:

(a) A narrative section describing how the release was discovered, what initial measures were taken to control the spread of contamination, what was observed when the tank was removed from the pit (odor, sheen, stained soils, holes in tank or lines, etc.), how the remediation was done, how much contaminated soil was removed, what was done with the contaminated soil and the decommissioned tank and piping, who collected the samples, how the samples were collected, stored, and shipped to the laboratory, and any problems encountered during the remediation or sample collection process;

(b) A description of all actions taken under OAR 340-177-0110(3), as a narrative report or on a form provided by the Department;

(c) A site map, drawn approximately to scale, showing the location of all buildings on the property and on adjacent properties, and location of the residential heating oil tank;

(d) Photographs taken at the time of residential heating oil tank decommissioning and remediation;

(e) A sketch of the site that clearly shows all of the sample locations and depths and identifies each location with a unique sample identification code;

(f) Copies of chain-of-custody forms for all soil and water samples collected, which forms include, but are not limited to: the date, time and location of the sample collection; the

name of the person collecting the sample; how the sample was collected; and any unusual or unexpected problems encountered during the sample collection which may have affected the sample integrity;

(g) Copies of all laboratory data reports;

(h) Copies of all receipts or permits related to the disposal of free product, contaminated soil, contaminated water, or decommissioned tanks and piping;

(i) A summary of the concentrations measured in the final round of samples from each sampling location;

(j) In cases where groundwater was present in the tank excavation zone, a summary of the data collected and the decision made by the Department in accordance with OAR 340-122-0355(3);

(k) The type of remediation option selected and implemented under OAR 340-177-0120(1); and

(l) Any other relevant information that adds clarity to the specifics of the individual remediation project.

(6) All written reports and correspondence required to be submitted to the Department must include the following information:

(a) Name of property owner and address of property;

(b) Site identification or log number assigned to the property by the Department;

(c) Name of the service provider(s) working on the project, if any, including license number and expiration date; and

(d) Name and signature of the person preparing the report.

(7) Upon review of the final residential heating oil tank remediation report the Department will:

(a) Provide the responsible person a written statement that, based upon information contained in the report, remediation at the site has been completed in accordance with these rules; or

(b) Request the responsible person to submit additional information or perform further investigation; or

(c) Request the responsible person to select and implement a different type of remediation option to adequately protect human health, safety, welfare and the environment.

Stat. Auth.: ORS 465.200 - 465.400
Stats. Implemented: ORS 465.260
Hist.: New

Remediation Options and Technical Requirements

340-177-0120 (1) Depending on the extent of contamination and other relevant factors, the responsible person must determine which type of remediation option is best suited for the release, using the following:

(a) Soil Matrix, OAR 340-122-0320 through 340-122-0360;

(b) Risk-Based, OAR 340-122-0244 and Corrective Action Plan, 340-122-0250; or

(c) Generic Remedy, as approved by the Department pursuant to OAR 340-122-0247 and as applicable to residential heating oil tank releases.

(2) For the specific remediation option selected, additional written report requirements may be required and must be included as specified by the applicable regulations.

(3) Public participation will be provided by the Department as required for the specific remediation option selected in section (1) of this rule.

(4) Sampling and analysis must be conducted in accordance with OAR 340-122-0218, unless otherwise specified by the remediation option selected in section (1) of this rule.

(5) All samples must be collected in accordance with OAR 340-122-0340 and 340-122-0345.

(6) Evaluation of analytical results must be conducted in accordance with OAR 340-122-0355.

Stat. Auth.: ORS 465.200 - 465.420
Stats. Implemented: ORS 465.260, 465.400
Hist.: New

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal
for
Heating Oil Tank Decommissioning Grant Rules

Attachment B-1
Legal Notice of Hearing

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING
A Statement of Need and Fiscal Impact accompanies this form.

DEQ - Waste Management and Cleanup
Agency and Division

Chapter 340
Administrative Rules Chapter Number

Susan M. Greco
Rules Coordinator

(503) 229-5213
Telephone

811 S.W. 6th Avenue, Portland, OR 97213
Address

		Northwest Region Office of DEQ Conference Room A/B 2020 SW 4th Avenue	
October 21, 1998	2:00 PM	Portland, Oregon	Laurie McCulloch
Hearing Date	Time	Location	Hearings Officer
		Multi-Purpose Room behind City Hall 7965 SW Wilsonville Road	
October 21, 1998	7:00 PM	Wilsonville, Oregon	Laurie McCulloch
Hearing Date	Time	Location	Hearings Officer
		Albany City Council Chambers 333 SW Broadalbin	
October 22, 1998	2:00 PM	Albany, Oregon	Jim Glass
Hearing Date	Time	Location	Hearings Officer
		Eugene Water and Electric Board Training Room 500 East 4th Avenue	
October 22, 1998	7:00 PM	Eugene, Oregon	Karen White-Fallon
Hearing Date	Time	Location	Hearings Officer

Are auxiliary aids for persons with disabilities available upon advance request? ✓ Yes ☐ No

RULEMAKING ACTION

ADOPT: OAR 340-177-0050, 340-177-0060, 340-177-0070 and 340-177-0080

AMEND: OAR 340-177-0001 and OAR 340-177-0005

REPEAL: None

RENUMBER: None

AMEND AND RENUMBER: None

Stat. Auth.: ORS 466.850 - 466.870
Stats. Implemented: ORS 466.855 & 466.870

RULE SUMMARY

This proposal would provide partial funding to decommission unused and abandoned heating oil tanks at owner-occupied, single family homes based on annual household income according to the following schedule:

ANNUAL INCOME	GRANT AMOUNT
< $35,000	$750
between $35,000 & $75,000	$500
>$75,000	$250

To be eligible for a grant, the grant applicant would have to submit a written report describing the completion of the following work:

- A statement the work was performed by the owner or a licensed service provider and supervisor pursuant to OAR 340-Division 160,
- removal and proper disposal of unused heating oil still in the tank,
- removal and proper disposal of the tank or its filling in place with an inert substance such as sand,
- completion of a site assessment to determine if a spill or release has occurred from past use of the tank, and
- reporting of a spill or release, if documented by the site assessment

October 30, 1998
Last Day for Public Comment

Susan Greco
Authorized Signer and Date

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal
for
Heating Oil Tank Decommissioning Grant Rules

Attachment B-2
Fiscal and Economic Impact Statement

Introduction

This is a new financial assistance program established by the 1997 Legislative Assembly. It is a voluntary program, as decommissioning of heating oil tanks is not required. The program is intended as a financial incentive to encourage the decommissioning of unused and abandoned heating oil tanks. The amount of assistance varies based on annual household income as shown in the following table:

ANNUAL INCOME	GRANT AMOUNT
< $35,000	$750
between $35,000 & $75,000	$500
>$75,000	$250

The grants were to be paid for from an assessment on heating oil collected by the Oil Heat Commission and transferred into a dedicated Heating Oil Technical Assistance and Grant Fund administered by the department. However, the Oil Heat Commission has not acted to implement the assessment. In addition, the law is being challenged in court and is currently awaiting a hearing at the State Appellate level. The department has received a $112,500 grant from the US Department of Energy under the Stripper Well Settlement Agreement to be applied to low income households under this program.

General Public

This program is specifically aimed at owners of heating oil tanks. It is estimated there may be as many as 60,000 active heating oil tanks and another 140,000 or more unused and abandoned heating oil tanks in Oregon. It typically costs up to $1,000 to remove any oil from these tanks, remove the tank from the ground or fill it in place, conduct a site assessment for contamination and write up a report of the results. Depending on household income levels, some or most of the cost of decommissioning may be covered by a decommissioning grant. At this time, the Department has only secured federal funding for 150 low income grants of $750. State funding has to wait for review and action by the 1999 Legislative Assembly.

Many of these decommissionings will occur with or without a grant program as a result of property transactions. The grant program may serve as an incentive to complete a decommissioning early. An early decommissioning may have the added benefit of preventing a release and the need for an environmental cleanup or lower the cost of cleaning up a release that is detected earlier.

Small Business

As a direct benefit, the program is not available to small business owners. Indirectly, however, some of the 250 DEQ licensed Service Providers will be hired to do this work. Most of the licensed Service Providers are small businesses.

It is estimated that some 2,000 decommissionings will occur annually, many prompted by property transactions. A grant program may cause a 10 percent increase by fostering some earlier decommissionings. Average decommissioning costs are $750. It is also estimated that some 1,000 environmental cleanups will be required as a results of releases being discovered during decommissionings. Average cleanup costs are $4,000.

Large Business

As a direct benefit, the program is not available to large business owners. Indirectly, however, some of the 250 DEQ licensed Service Providers will be hired to do this work. Some of the licensed Service Providers are large businesses. See discussion under small business above regarding indirect benefits.

Local Governments

The program is not available to, nor does it affect, local governments.

State Agencies

- Department of Environmental Quality
  - 5.0 FTE (Limited Duration)
  - $357,809 Revenues
  - $357,809 Expenses (of which $112,500 is for low income grants)

- Other Agencies
  - Not Applicable

Assumptions

Assumptions are set forth in the introduction.

Housing Cost Impact Statement

The Department has determined that this proposed rulemaking will have no effect on the cost of development of a 6,000 square foot parcel and the construction of a 1,200 square foot detached single family dwelling on that parcel.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal
for
Heating Oil Tank Decommissioning Grant Rules

Attachment B-3
Land Use Evaluation Statement

1. Explain the purpose of the proposed rules.

This is a new environmental program established by the 1997 Legislative Assembly. The program envisions DEQ paying up to $750 decommissioning grants to households based on annual income (higher grants to lower income households) for the proper decommissioning of unused and abandoned heating oil tanks. The department has received a $112,500 grant from the US Department of Energy under the Stripper Well Settlement Agreement to be applied to low income households under this program. The grants would pay part of the cost to remove any unused heating oil in tanks and for either the removal of the tank from the ground or its filling in place with an inert substance (such as sand).

The grants were to be paid for from an assessment on heating oil collected by the Oil Heat Commission and transferred into a dedicated Heating Oil Technical Assistance and Grant Fund administered by the department. However, the Oil Heat Commission has not acted to implement the assessment. In addition, the law is being challenged in court and is currently awaiting a hearing at the State Appellate level.

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:

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 and 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 involved 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.

Heating oil tanks currently are not regulated by state environmental rules. Relative to other underground tanks, however, the installation, operation and decommissioning of underground storage tanks has not previously been identified as a program affecting land use. The type of work to be performed to get a heating oil tank decommissioning grant is similar to regulated tank decommissioning work; hence, the department concludes the proposed heating oil tank decommissioning grant rules will not establish a program that would 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

Approved By:

_____	Roberta Young	September 14, 1998
Division	Intergovernmental Coordinator	Date

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal
for
Heating Oil Tank Decommissioning Grant Rules

Attachment B-4

Questions to be Answered to Reveal Potential Justification for Differing from Federal Requirements.

1. Are there federal requirements that are applicable to this situation? If so, exactly what are they?

There are no federal regulations related to the decommissioning of heating oil tanks, nor are there any federal financial assistance programs. A program to offer heating oil tank decommissioning grants would be a state only program.

2. Are the applicable federal requirements performance based, technology based, or both with the most stringent controlling?

N/A

3. Do the applicable federal requirements specifically address the issues that are of concern in Oregon? Was data or information that would reasonably reflect Oregon's concern and situation considered in the federal process that established the federal requirements?

N/A

4. Will the proposed requirement improve the ability of the regulated community to comply in a more cost effective way by clarifying confusing or potentially conflicting requirements (within or cross-media), increasing certainty, or preventing or reducing the need for costly retrofit to meet more stringent requirements later?

N/A

5. Is there a timing issue which might justify changing the time frame for implementation of federal requirements?

N/A

6. Will the proposed requirement assist in establishing and maintaining a reasonable margin for accommodation of uncertainty and future growth?

N/A

7. Does the proposed requirement establish or maintain reasonable equity in the requirements for various sources? (level the playing field)

N/A

8. Would others face increased costs if a more stringent rule is not enacted?

N/A

9. Does the proposed requirement include procedural requirements, reporting or monitoring requirements that are different from applicable federal requirements? If so, Why? What is the "compelling reason" for different procedural, reporting or monitoring requirements?

N/A

10. Is demonstrated technology available to comply with the proposed requirement?

Yes. Work to be performed is very similar to decommissioning work done at regulated underground storage tank sites. There also is an experienced pool of DEQ licensed service providers currently working on decommissioning heating oil (generally associated with property transactions) and regulated tanks.

11. Will the proposed requirement contribute to the prevention of pollution or address a potential problem and represent a more cost effective environmental gain?

Yes. The program is intended to serve as incentive to homeowners to properly decommission unused or abandoned heating oil tanks. It is common to find up to 100 gallons of heating oil still inside unused or abandoned tanks. Some of these tanks may already be leaking, and it's only a matter of time before all of these steel tanks will leak. To decommission before a leak, or with only a small release, will save the homeowners significant future environmental cleanup costs.

State of Oregon
Department of Environmental Quality **Memorandum**

Date: September 15, 1998

To: Interested and Affected Public

Subject: Rulemaking Proposal and Rulemaking Statements
- Heating Oil Tank Decommissioning Grants

This memorandum contains information on a proposal by the Department of Environmental Quality (Department) to adopt new rules regarding heating oil tank decommissioning grants. Pursuant to ORS 183.335, this memorandum also provides information about the Environmental Quality Commission's intended action to adopt a rule.

This proposal would provide partial funding to decommission unused and abandoned heating oil tanks at owner-occupied, single family homes based on annual household income according to the following schedule:

ANNUAL INCOME	GRANT AMOUNT
< $35,000	$750
between $35,000 & $75,000	$500
>$75,000	$250

To be eligible for a grant after the work has been completed, the grant applicant would have to submit a written report describing the completion of the following work:

- A statement the work was performed by the owner or a licensed service provider and supervisor pursuant to OAR 340-Division 160,
- removal and proper disposal of unused heating oil still in the tank,
- removal and proper disposal of the tank or its filling in place with an inert substance (such as sand),
- completion of a site assessment to determine if a spill or release has occurred from past use of the tank, and
- reporting of a spill or release, if documented by the site assessment

The Department has the statutory authority to address this issue under ORS 466.850 to 466.870. These rules implement ORS 466.855 and 466.870.

What's in this Package?

Attachments to this memorandum provide details on the proposal as follows:

Attachment A	The official statement describing the fiscal and economic impact of the proposed rule. (required by ORS 183.335)
Attachment B	A statement providing assurance that the proposed rules are consistent with statewide land use goals and compatible with local land use plans.
Attachment C	Questions to be Answered to Reveal Potential Justification for Differing from Federal Requirements.
Attachment D	Proposed Rule Language
Attachment E	Recommended Changes by Rule Review Work Group

Hearing Process Details

The Department is conducting public hearings at which comments will be accepted either orally or in writing. The hearings will be held as follows:

Date: October 21, 1998
Time: 2:00 PM
Place: Northwest Region Office of DEQ
Conference Room A/B
2020 SW 4th Avenue
Portland, Oregon

Date: October 21, 1998
Time: 7:00 PM
Place: Multi-Purpose Room behind City Hall
7965 SW Wilsonville Road
Wilsonville, Oregon

Date: October 22, 1998
Time: 2:00 PM
Place: Albany City Council Chambers
333 SW Broadalbin
Albany, Oregon

Date: October 22, 1998
Time: 7:00 PM
Place: Eugene Water and Electric Board
Training Center
500 East 4th Avenue
Eugene, Oregon

Deadline for submittal of Written Comments: October 30, 1998. Received by 5:00 PM at the address listed below.

Laurie McCulloch will be the Presiding Officer for the Portland and Wilsonville hearings. Jim Glass will be the Presiding Officer for the Albany hearing. Karen White-Fallon will be the Presiding Officer for the Eugene hearing.

Written comments can be presented at the hearing or to the Department any time prior to the date and time above. Comments should be sent to:

Department of Environmental Quality
Attn: Laurie McCulloch
811 S.W. 6th Avenue
Portland, Oregon 97204

In accordance with ORS 183.335(13), no comments from any party can be accepted after the deadline for submission of comments has passed. Thus if you wish for your comments to be considered by the Department in the development of these rules, your comments must be received prior to the close of the comment period. The Department recommends that comments are submitted as early as possible to allow adequate review and evaluation of the comments submitted.

What Happens After the Public Comment Period Closes

Following close of the public comment period, the Presiding Officer will prepare a report which summarizes the oral testimony presented and identifies written comments submitted. The Environmental Quality Commission (EQC) will receive a copy of the Presiding Officer's report. The public hearing will be tape recorded, but the tape will not be transcribed.

The Department will review and evaluate the rulemaking proposal in light of all information received during the comment period. Following the review, the rules may be presented to the EQC as originally proposed or with modifications made in response to public comments received.

The EQC will consider the Department's recommendation for rule adoption during one of their regularly scheduled public meetings. The targeted meeting date for consideration of this rulemaking proposal is December 11, 1998. This date may be delayed if needed to provide additional time for evaluation and response to testimony received in the hearing process.

You will be notified of the time and place for final EQC action if you present oral testimony at the hearing or submit written comment during the comment period. Otherwise, if you wish to be kept advised of this proceeding, you should request that your name be placed on the mailing list.

Background on Development of the Rulemaking Proposal

Why is there a need for the rule?

This is a new program established by the 1997 Legislative Assembly. The Department recently received federal funding to develop the program and adopt rules, provide technical assistance to owners of heating oil tanks and provide decommissioning grants to low income households. The Department is interpreting the federal reference to low income households as meaning 150 decommissioning grants of $750 to households with annual income less than $35,000.

Additional grants for all household income levels were to be paid for from an assessment on heating oil collected by the Oil Heat Commission and transferred into a dedicated Heating Oil Technical Assistance and Grant Fund administered by the Department. The Oil Heat Commission has not acted to implement the assessment, so no state funds have been collected at this time. In addition, the law is being challenged in court and is currently awaiting a hearing at the State Appellate level.

How was the rule developed?

A Heating Oil Tank Decommissioning Grant Workgroup of interested and affected parties was convened to discuss the program and rules. Four public hearings are scheduled for mid-October in Portland, Wilsonville, Albany and Eugene. Although heating oil tanks are unregulated, releases from heating oil tanks must be reported and environmental cleanup is subject to Department rules and oversight. The Department has provided extensive technical assistance over the last ten years to owners voluntarily decommissioning heating oil tanks and cleaning up environmental contamination from releases of heating oil.

ORS 466.850 to 466.870 was the only document relied upon to develop the proposed rules. A copy of this document can be obtained from the Department of Environmental Quality's office at 811 S.W. 6th Avenue, Portland, Oregon. Please contact Laurie McCulloch for a copy of this document.

Whom does this rule affect including the public, regulated community or other agencies, and how does it affect these groups?

Owners who occupy single family dwellings with unused or abandoned heating oil tanks may voluntarily choose to decommission such tanks and receive partial compensation from DEQ in the form of a grant based on annual household income. The amount of the grant varies as shown in the following table:

ANNUAL INCOME	GRANT AMOUNT
< $35,000	$750
between $35,000 & $75,000	$500
>$75,000	$250

At this time only limited federal funds have been secured to implement the program. It is proposed that grants will only go to some 150 low income homeowners. If additional state or federal money becomes available, homeowners at all income levels would be eligible for assistance.

How will the rule be implemented?

Following rule adoption the Department will mail fact sheets and send information to print and voice media to announce the program and grants to homeowners and contractors. The type of work to receive a grant has already been occurring regularly over the last ten years associated with property transactions where there have been unused or abandoned heating oil tanks. Therefore, licensed contractors and department staff are already quite familiar with the technical aspects of the program. Applications will be made available to potentially eligible households using a mailing list that has been compiled over the past year. Additionally, public notice associated with this rulemaking will inform other heating oil tank owners of the proposed decommissioning grant program.

Are there time constraints?

The Department has received a federal grant to provide 150 low income decommissioning grants of

$750. The grant period ends July 1, 1999, unless an extension is approved.

Contact for More Information

If you would like more information on this rulemaking proposal or would like to be added to the mailing list, please contact:

Laurie J. McCulloch
811 SW 6th Avenue
Portland, OR 97204

Phone toll-free 1-800-742-7878 (answering machine, please a leave message)
Phone 503-229-5769
Fax 503-229-6954
E-mail mcculloch.laurie.j@deq.state.or.us

The Department has also posted relevant information, including a copy of the draft rules, on its Underground Storage Tank Program Web Page which can be accessed at:

http://www.deq.state.or.us/wmc/tank/ust-lust.htm

This publication is available in alternate format (e.g. large print, Braille) upon request. Please contact DEQ Public Affairs at 503-229-5317 to request an alternate format.

State of Oregon
Department of Environmental Quality Memorandum

To: Environmental Quality Commission Date: November 4, 1998

From: Laurie J. McCulloch, UST Program

Subject: Presiding Officer's Report for Rulemaking Hearing
Title of Proposal: Heating Oil Tank Decommissioning Grant Rules
Attachment C

Four separate rulemaking hearings on the proposed Heating Oil Tank Decommissioning Grant rules were held. At each meeting, 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, staff briefly explained the specific rulemaking proposal, the reason for the proposal, and responded to questions from the audience. Presiding Officers at each hearing are noted below:

Hearing Date and Time:	October 21, 1998, beginning at 2:15 pm, ending at 3:15 pm
Hearing Location:	Portland
Number of People in Attendance:	1
Number of People Giving Testimony:	0
Presiding Officer:	Nancy Couch
Rule Presenter:	Laurie McCulloch

Hearing Date and Time:	October 21, 1998, beginning at 7:10 pm, ending at 7:45 pm
Hearing Location:	Wilsonville
Number of People in Attendance:	2
Number of People Giving Testimony:	0
Presiding Officer:	Jim Glass
Rule Presenter:	Laurie McCulloch

Hearing Date and Time:	October 22, 1998, scheduled to begin at 2:00 pm
Hearing Location:	Albany
Number of People in Attendance:	0
Number of People Giving Testimony:	0
Presiding Officer:	Jim Glass
Rule Presenter:	Karen White-Fallon

Hearing Date and Time:	October 22, 1998, beginning at 7:00 pm, ending at 8:10 pm
Hearing Location:	Eugene
Number of People in Attendance:	1
Number of People Giving Testimony:	0
Presiding Officer:	Jim Glass
Rule Presenter:	Karen White-Fallon

Summary of Oral Testimony

No person presented Oral Testimony.

Written Testimony

No person handed in written comments during the public hearings. Five people provided written comments during the public comment period.

Commentator No. 1 - Wendell W. Weckert, stated that the proposed program (SB 1143) was being discussed and mentioned to homeowners long before it actually was approved. Therefore, he believes the effective date should be moved back two to five years prior to the date the legislature passed the bill.

Commentator No. 2 - Cynthia L. Longie, is grateful that there is a program that offers some funds. However, for those on a limited income, a mechanism for pre-approval of the grant before they decided to do the work would help these homeowners in making a decision and would give them peace of mind to know they would receive some funding to off-set costs.

Commentator No. 3 - Maria Larsen, wanted to encourage the establishment of a state governed oil tank decommissioning program that sets reasonable rules and standards. She also stated that she wants to encourage appropriation of funds to help with the financial burden that private citizens face in meeting those standards. She found it to be a very anxious time when her tank was removed - not knowing what the total costs could be. "State supported decommissioning processes may help to keep costs of oil tank retirement to a reasonable minimum."

Commentator No. 4 - Carolee Paugh, stated that "when underground residential oil tanks became news worthy, I knew it was important to have my unused tank checked and resolved." Costs for decommissioning and cleanup turned out to be five times higher than the original estimate. Ms. Paugh also stated that "More homeowners who are elderly and on limited income might choose to have their tanks decommissioned if sufficient funding is available to them."

Commentator No. 5 - Gene Duncan, is concerned about promises made to tank owners under the previous Oil Heat Commission. He states that "The proposed rules are arbitrary and unfair for the following reasons: limited funds will prevent the "$500" category from recovering any funds; equitable consideration of cleanup costs, not solely income and a separate category, should [be] set forth for those who have decommissioned tanks under the Commission program but are not yet reimbursed".

DEQ will respond to the comments received in the Staff Report to the Commission.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal
for
Heating Oil Tank Decommissioning Grant Rules

Attachment D
Department's Evaluation of Public Comments

Public comments are summarized below along with the Department's responses. Copies of the complete comments are available upon request. Please refer to the Presiding Officer's Report (Attachment C) for information about the public comment period and hearings. The Rule Review work group's Comments are contained in detail in Attachment F.

General Comments

Comment: Commentator No. 3 wants to encourage both the establishment of a state governed oil tank decommissioning program that sets reasonable rules and standards and appropriation of funds to help with the financial burden that private citizens face in meeting those standards. "State supported decommissioning processes may help to keep costs of oil tank retirement to a reasonable minimum." Commentator No. 4 also believes that "More homeowners who are elderly and on limited income might choose to have their tanks decommissioned if sufficient funding is available to them."

Response: The Department appreciates the support for the program. No changes to the rules are proposed.

Comment: Commentator No. 5 does not support the proposed rules, stating that "The proposed rules are arbitrary and unfair for the following reasons: limited funds will prevent the "$500" category from recovering any funds; equitable consideration of cleanup costs, not solely income and a separate category should set forth for those who have decommissioned tanks under the Commission program but are not yet reimbursed".

Response: The Department agrees that the current funding source from the Federal grant money will make it unlikely that Oil Heat Commission claimants of income levels higher than the minimum of $35,000 will be eligible to receive grants before current funds run out. If additional funds become available at some future date, the "tiered" system of grant disbursement would not be necessary. The Department disagrees with the statement that the rules are "arbitrary and unfair" as they follow statuary requirements for reimbursement for decommissioning costs only based on household income levels. No changes to the rules are proposed.

OAR 340-177-0050(2)

Comments: Commentator No. 1 believes the effective date should be moved back two to five years prior to the date the legislature passed the bill, as the topic had been mentioned to homeowners much earlier than October 4, 1997.

Response: The Department agrees there had been much speculation and ideas being discussed prior to the passage of SB 1143. However, without specific direction in the enacting legislation, the Department believes that the earliest date is the default effective date for non-emergency laws. This is 90 days after the Legislature adjourns - October 4, 1997 for the 1997 Legislature. No rule changes are proposed.

Pre-Approval of Grant Applicants

Comment: Commentator No. 2 suggests that some type of process to pre-approve grant applicants be available to give assurance to low income homeowners that they would receive some funding to off-set costs.

Response: The Department agrees with this suggestion and has proposed revisions that would allow pre-approval if there are sufficient funds to make this practicable.

OAR 340-177-0005(10)

Comment: The Heating Oil Tank (HOT) Grant work group recommended that the definition of "household" be deleted, as the term is more of an economic unit than a "place".

Response: The Department agrees and has proposed revisions.

OAR 340-177-0005(11)

Comment: The HOT Grant work group felt that the grant should not be limited to owner-occupied residences in order to encourage the maximum number of homeowners to decommission unused tanks. References to Oregon Tax Return information should be changed to Federal.

Response: The Department agrees and has proposed revisions in several areas where clarification is necessary to enact this change.

OAR 340-177-0050

Comment: The HOT Grant work group wanted to see more certainty that the Department will issue grants to applicants. At the same time, they suggested more flexibility be retained to issue grants as soon as possible, if additional funds become available.

Response: The Department agreed with both suggestions and has proposed revisions in several areas clarification is necessary to enact this change and the general recommendation of both certainty and flexibility where ever possible in the rules.

OAR 340-177-0060 and 340-177-0070

Comment: The HOT Grant work group suggested several minor changes to the application requirements that would add clarity for someone reading the rules.

Response: The Department agrees, and has made several changes to the above sections to make these modifications, as well a those made by Commentator No. 2, and to achieve certainty and flexibility wherever possible.

OAR 340-177-0080

Comment: The HOT Grant work group was divided on whether grant applicants must perform a site assessment to test for the presence or absence of contamination as a condition of eligibility. Although this question was specifically pointed out in the material mailed to interested parties, no comments were received on this issue. Some work group members believed that testing should not be a grant eligibility requirement unless ALL homeowners were required to do testing upon decommissioning a tank.

Response: The Department believes that soil assessment is an essential part of a grant program for an environmental issue. Currently there are no "requirements" to decommission an unused heating oil tank. The Department has "recommended practices" on how that work should be performed (including soil sampling) that have been in place for many years. Due to the limited amount of funding at this time, and the fact that the work group seemed to have strong opinions one way or the other, the Department proposes a compromise for this rulemaking. Rule language would be added to give the Department greater flexibility to waive certain requirements to qualify for a grant. Applications would note that failure to have sampling results would not be a reason to disqualify a grant applicant. This would allow the Department the opportunity to reinstate the sampling requirement if additional funds are secured and may also include additional public review if appropriate.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal
For
Heating Oil Tank Decommissioning Grant Rules

Attachment E
Detailed Changes to Original Rulemaking Proposal
Made in Response to Public Comment

Listed below by rule number are recommended changes to the public comment draft.

OAR 340-177-0001

Recommended	This Division specifies requirements for the remediation of releases of petroleum from underground residential heating oil tanks and for the disbursement of grants to property owners (homeowners) who voluntarily decommission an unused residential heating oil tank.
Hearing Proposal	This Division specifies requirements for the remediation of releases of petroleum from underground residential heating oil tanks and for the disbursement of heating oil tank decommissioning grants.
Reason	Wording change adds clarity to the purpose of the rules and who is affected.

OAR 340-177-0005(10)

Recommended	Delete definition of "Household".
Hearing Proposal	"Household" means an owner-occupied, single-family, residential dwelling used for human habitation, but does not include a residential dwelling owned by a government agency.
Reason	Term refers to an economic unit rather than a "place". Existing definition for "Residential Heating Oil Tank" and revised definition for "Household Income" are sufficient.

OAR 340-177-0005(11)

Recommended	"Household Income" means the combined total gross annual income of all persons shown in the county deed records as owners of the property where a residential heating oil tank has been or will be decommissioned. The

annual period is for the most recent tax year that complete tax forms are available, in reference to both the date of tank decommissioning and date of grant application.

Hearing Proposal — "Household Income" means the combined total income as documented on line 20 of Form 40 (income after subtractions) or line 11 less line 12 (total income less federal tax liability) of Form 40S on the most recent full-year Oregon Individual Income Tax Return of all the persons shown in the County deed records as owners of a household as defined in this section.

Reason — Deletes reference to Oregon Tax returns and defines which tax year forms apply. Additional detail included in new OAR 340-177-0070(1)(d) to complete expansion to all Oregon property owners with a decommissioned residential heating oil tank.

OAR 340-177-0050(1)

Recommended — Any person owning property where a residential heating oil tank is located may be eligible for a decommissioning grant pursuant to OAR 340-177-0060 and upon meeting the provisions of OAR 340-177-0070.

Hearing Proposal — Any person owning a household as defined in OAR 340-177-0005(10) may be eligible for a heating oil tank decommissioning grant pursuant to OAR 340-177-0060 upon meeting the conditions and requirements in OAR 340-177-0070.

Reason — Deletes reference to deleted definition and includes wording changes for clarity.

OAR 340-177-0050(3)

Recommended — Any person awarded a grant for a residential heating oil tank that was decommissioned by filling in-place must record a deed notice of the presence of the tank in the property deed in the county of record. Documentation of the recording must be submitted to the Department, in accordance with county requirements or on a form provided by the Department, before actual grant disbursement.

Hearing Proposal — Any person applying for a grant for a heating oil tank that was decommissioned by filling in-place must record a deed notice of the presence of the tank in the property deed in the county of record and provide documentation of the recording with the grant application as required by OAR 340-177-0070(f).

Reason — Gives flexibility to the Department to approve a grant before requiring

homeowner to file deed notice. As deed notice is only required if a grant is approved, this avoids applicants filing one if they do not receive a grant. Also, taking time to file a deed notice would put those applicants at a disadvantage to those ready to submit an application immediately, as grants will be awarded on a first-come, first-served basis.

OAR 340-177-0060(1) and (2)

Recommended

(1) Subject to subsections 2 and 3 of this section, the Department will award heating oil tank decommissioning grants in the following amounts:
(a) for annual household income less than $35,000 the grant amount is $750;
(b) for annual household income between $35,000 and $75,000 the grant amount is $500; and
(c) for annual household income more than $75,000 the grant amount is $250.
(2) Subject to subsection 3 of this section, the Department will award decommissioning grants on a first-come, first-served basis, within a reasonable time for application approval and check issuance, dependent upon the receipt of a complete application pursuant to OAR 340-177-0070 and according to the following priority:
(a) Until March 1, 1999 to low income (less than $35,000 annually) qualifying property owners who were non-funded Oil Heat Commission claimants;
(b) From March 1, 1999 to June 30, 1999 to any low income (less than $35,000 annually) qualifying property owners;
(c) From July 1, 1999 to September 30, 1999 to any qualifying property owners who were non-funded Oil Heat Commission claimants; and
(d) After October 1, 1999 to any qualifying property owners.

Hearing Proposal

(1) The Department may pay a heating oil tank decommissioning grant according to the priority schedule in subsection 2 of this section in the following amounts:
(a) if annual household income is less than $35,000 the grant amount is $750;
(b) if annual household income is not less than $35,000 or more than $75,000 the grant amount is $500; and
(c) if annual household income is more than $75,000 the grant amount is $250.
(2) The Department may pay a decommissioning grant on a first-come, first-served basis dependent upon the submission of a complete application pursuant to OAR 340-177-0070 according to the following priority schedule for grant disbursements:
(a) Until March 1, 1999 to low income households (less than $35,000) who were unfunded Oil Heat Commission claimants;

(b) From March 1, 1999 to June 30, 1999 to any low income households (less than $35,000);
(c) From July 1, 1999 to September 30, 1999 to any households who were unfunded Oil Heat Commission claimants; and
(d) After October 1, 1999 to any qualifying households.

Reason — Makes changes to wording that give certainty that the Department will award grants and clarifies other wording for better understanding.

OAR 340-177-0060(4) - new

Recommended — The Department may waive the priority schedule in subsection 2 of this section if sufficient funds are available to award grants in proportion to the number of actual or projected applications.

Hearing Proposal — None.

Reason — Allows flexibility to disburse grants more quickly to other income levels if additional funds are received in the future.

OAR 340-177-0060(5) - new

Recommended — The Department may pre-approve applicants for basic eligibility requirements if sufficient funds are available to make this provision feasible.
(a) Pre-approved status expires 60 days after date of issuance by the Department.

Hearing Proposal — None.

Reason — Responds to public comment to allow for pre-approval of grant eligibility if funding available.

OAR 340-177-0060(6) - new

Recommended — The Department will promptly notify grant applicants of any additional information needed to process their application. The Department will notify applicants in writing if the provisions of OAR 340-177-0070 are not met or if there are other conditions impacting application status (e.g. ineligible, on hold pending additional information, etc.).

Hearing Proposal — None.

Reason — Provides applicants greater certainty of actions the Department will take.

OAR 340-177-0070(1)

Recommended — To receive a heating oil tank decommissioning grant, eligible property owners may submit an application on a form provided by the Department. Each applicant must provide the following information, unless otherwise directed by the Department:

Hearing Proposal — To receive a heating oil tank decommissioning grant, any person may submit a decommissioning grant application on a form provided by the Department. The form shall require and the applicant shall provide the following information:

Reason — Provides both clarity and flexibility as recommended by HOT Grant work group.

OAR 340-177-0070(b) - new

Recommended — Social Security number and full name of the grant applicant to whom a check will be issued;

Hearing Proposal — None.

Reason — Required information for fund disbursement and tax reporting purposes.

OAR 340-177-0070(c)

Recommended — To receive priority consideration pursuant to OAR 340-177-0060(2)(a) or (c), the Oil Heat Commission claim number must be provided, and this number must correspond to any lists of non-funded claims provided by the Oil Heat Commission to the Department.

Hearing Proposal — To receive priority consideration pursuant to OAR 340-177-0060 (a) and (c), documentation that the household had an unfunded Oil Heat Commission claim for environmental cleanup;

Reason — Adds clarity by requesting specific information.

OAR 340-177-0070(d)(A), and (B) - new

Recommended — Evidence of annual household income as defined by OAR 340-177-0005 (10) by providing either:
(A) A copy of the Federal Income Tax Return(s) (page 1 and 2 of Form 1040 or equivalent without attachments) that shows the total household income for all owners of the property where the residential heating oil tank was/is located, or

(B) For a property owner not required to file a Federal Income Tax Return, a signed statement of that owner's total annual household income;

Hearing Proposal

Evidence of annual household income as defined by OAR 340-177-0005 (11) by providing either:
(A) A copy of the most recent Oregon Individual Income Tax Return that shows the total household income of all the owners of the real property where the heating oil tank decommissioning was conducted, or
(B) For a property owner not required to file an Oregon Individual Income Tax Return, a signed affidavit, on a form to be provided by the Department, of that owner's annual household income;

Reason

Changes requirement for Oregon tax records to Federal in accordance with HOT Grant work group recommendation.

OAR 340-177-0070(e) and (f)

Recommended

(e) A copy of the decommissioning report that meets the provisions of OAR 340-177-0080 that includes documentation that decommissioning work was performed after October 4, 1997; and
(f) If the heating oil tank was decommissioned in-place, a copy of the recorded deed notice in accordance with OAR 340-177-0050(3).

Hearing Proposal

(d) A copy of a decommissioning report that meets the conditions and requirements of OAR 340-177-0080;
(e) A signed statement, on a form to be provided by the Department, that the decommissioning work was performed after October 4, 1997; and
(f) If the heating oil tank was decommissioned in place, a copy of the recorded deed notice required by OAR 340-177-0050 (3).

Reason

Adds clarity and combines requirements of subsections (d) and (e).

OAR 340-177-0080(1)(a)

Recommended

A statement that the work was performed by the tank owner or the name and license number of the licensed Service Provider and Supervisor that performed the work;

Hearing Proposal

A statement that the work was performed by the owner of the tank or the name and license number of the Service Provider and Supervisor licensed pursuant to OAR 340 - Division 160 that performed the work;

Reason

Deletes redundant wording (term is defined).

OAR 340-177-0080(3)

Recommended	The Department may waive one or more of the provisions of subsection (1) of this section for decommissioning work completed between October 4, 1997 and the effective date of these rules or as otherwise determined appropriate by the Department.
Hearing Proposal	Upon a request and explanation in writing why a particular condition or requirement can't be met, the Department may waive one or more of the conditions or requirements of subsections (1) (a) through (e) of this section for decommissioning work completed between October 4, 1997 and the effective date of these rules.
Reason	Deletes unnecessary wording and allows Department flexibility on specific requirements, including sampling.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal Additional Information
for
Heating Oil Tank Decommissioning Grants

Attachment F
Rule Review Work Group Comments

Purpose

The purpose of this document is to note the comments and recommendations made by the Heating Oil Tank Decommissioning Grant Rule Review work group, a group of interested citizens and industry representatives convened to review draft rules proposed by the Department. This group met on September 18, 1998 to review the draft rules and their comments, suggestions, and recommendations are noted here for public review and comment.

The draft rules now open for public comment may be modified by the recommendations of this work group or other comments received during the public notice period. The work group agreed that the draft rules should not be modified prior to public review, in order to stimulate public comment on specific issues. A list of the work group members is included at the end of this document.

Line-by-line Review

OAR 340-177-0005(10) the definition of "Household" should be deleted as unnecessary. Members generally believed that the term is more of an economic unit than a "place".

OAR 340-177-0005(11) the definition of "Household Income" should refer to Federal Income Tax return (versus Oregon Income Tax). In addition, it should be clarified that the "most recent year" tax return is referenced to the date of actual heating oil tank decommissioning.

OAR 340-177-0050(1) – this should be re-worded to a "person owning an eligible heating oil tank".

OAR 340-177-0050(1) and (2) – both should be modified to "The Department will…" (versus "may") to denote more certainty. A general suggestion was made that more flexibility be retained in order to disburse grants as soon as possible, or in the event additional funding is secured that would allow disbursements to all eligible persons, to alleviate the need for funding priorities.

OAR 340-177-0070(1) suggested that this be re-worded for clarity, such as "applicant shall submit the following information…".

OAR 340-177-0070(1)(b) suggested that Oil Heat Commission Claim number be included .

OAR 340-177-0070(1)(c)(A)and(B) change reference to Oregon Tax return to Federal Tax.

General Discussion and Recommendations

In addition to the line-by-line modifications suggested above, there were several topics that warrant public comment and review.

Tank Ownership - The work group as a whole felt that the grant should not be limited to owner-occupied residences. Rather, rules should focus on whether the underground heating oil tank itself qualified. There is currently a definition of "residential heating oil tank" (OAR 340-177-0005(14) that is sufficient for these purposes. This would allow owners of more than one tank on multiple properties to potentially qualify. The tank owner's household income would limit the amount of the grant received if they owned several income producing properties. This would also allow property owners from out-of-state to potentially qualify. The work group believes that the overall intent is to encourage the decommissioning of tanks that are no longer in use, and therefore the limitation to "owner-occupied" or Oregon residence would be too restrictive.

Soil Testing – The work group was divided on the requirement of OAR 340-177-0080(1)(d) to have a site assessment to determine the presence of a release as part of the grant eligibility requirements. Although all felt that every abandoned tank that is removed should have a requirement for soil testing, some felt it was too onerous as a grant requirement for several reasons. 1) The cost of testing (approximately $150), 2) the cost of cleanup for low income home owners once contamination is confirmed), and 3) that testing is not "required" for anyone not applying for a grant. [Note: The Department has had a long-standing document "recommended practices for decommissioning heating oil tanks" that includes soil testing. However, these are "recommended" not required.] Two people questioned whether the Department had the authority to require a site assessment as part of the grant eligibility requirements.

Other issues not specifically part of this rulemaking that the work group felt warranted notice:

Deed Notice for tanks decommissioned in-place – this did not seem appropriate and could be considered to be a negative report for a future property buyer. Suggested that next Legislature should consider deleting this requirement.

Other Reimbursement programs and grant amounts – if a heating oil tank owner received funding from another source, such as through insurance or the Oil Heat Commission, they should not be eligible for this grant as well. If the grant amount exceeded the actual cost of decommissioning, this did not seem appropriate. However, the work group agreed that review requirements necessary to confirm decommissioning costs would outweigh the few cases where this might occur.

Work Group Members

Dennis Puetz, Citizen Representative
Barbara Reilly, Service Provider
Randy Benke, Environmental Attorney
Craig Spainhower, Service Provider
Kris Hudson, Citizen Representative
Peter Barab , Citizen Representative

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal
for
Heating Oil Tank Decommissioning Grant Rules

Attachment G
Rule Implementation Plan

Summary of the Proposed Rule

This is a new financial assistance program established by the 1997 Legislative Assembly. It is a voluntary program, as decommissioning of heating oil tanks is not required. The program is intended as a financial incentive to encourage the decommissioning of unused and abandoned heating oil tanks. The amount of assistance varies based on annual household income as shown in the following table:

ANNUAL INCOME	GRANT AMOUNT
< $35,000	$750
between $35,000 & $75,000	$500
>$75,000	$250

The grants were to be paid for from an assessment on heating oil collected by the Oil Heat Commission and transferred into a dedicated Heating Oil Technical Assistance and Grant Fund administered by the Department. However, the Oil Heat Commission has not acted to implement the assessment. In addition, the law is being challenged in court and is currently awaiting a hearing at the State Appellate level. The Department has received a $112,500 grant from the US Department of Energy under the Stripper Well Settlement Agreement to be applied to low income households under this program.

Proposed Effective Date of the Rule

Rules would be effective upon filing with the Secretary of State's Office, or about December 18, 1998.

Proposal for Notification of Affected Persons

A Hearing Notice was published in the Secretary of State's Bulletin on October 1, 1998. The Hearing Notice and informational materials were mailed on October 1, 1998 to the mailing list of those persons who have asked to be notified of all 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. This included approximately 230 licensed Service Providers and approximately 2,000 homeowners who have expressed interest in residential heating oil tank issues over the past year.

Four Public Hearings were held on October 21 and 22, 1998 in Portland, Wilsonville, Albany and Eugene.

Proposed Implementing Actions

Guidance for homeowners will be developed through grant applications and information on how to file a deed notice if required. Statute requires that a deed notice be made whenever a tank is left in-place after decommissioning. Staff will draft suggested wording for homeowners to use when filing this notice with county officials.

In early January, 1999, applications will be mailed to all property owners on the Oil Heat Commission's (OHC) list of non-funded claimants. At that time, an informational fact sheet will be mailed to all other potential applicants. Applications will not be mailed to non-OHC potential applicants until approximately March 1, 1999. There are approximately 2,200 homeowners on our potential applicant list, which includes all OHC claimants. Current funding limits grants to those with household incomes of less than $35,000 per year. Applications will only be accepted for those who meet this condition at this time.

If all 150 grants to low income households are not issued to low income OHC claimants who did not receive any funding from OHC by March 1, 1999, applications will be reviewed for non-OHC low income applicants. It is expected that all 150 grants will be awarded by June 30, 1999. If funds are still available then, the last group of potentially eligible applicants is non-funded OHC claimants of any income level.

Proposed Training/Assistance Actions

Initial staff training was held on October 20, 1998 during the UST Program Statewide meeting to give all staff details on the proposed rules. Due to the limited number of grants that can be issued with current funds, training on work procedures will be limited to HQ Program staff.

Environmental Quality Commission

☒ Rule Adoption Item
☐ Action Item
☐ Information Item

Agenda Item F
December 11, 1998 Meeting

Title:

Adoption of New Source Review/Prevention of Significant Deterioration rule amendments, and miscellaneous revisions associated with revocation of the pre-existing PM10 and ozone standards, as a revision to the State Implementation Plan.

Summary:

As part of the process of transitioning from the old to the new standards for particulate matter and ground level ozone, EPA will be revoking the nonattainment designations for areas that have complied with the old standards. Under federal guidance, the stringent New Source Review industrial control and offset requirements will be replaced with less stringent Prevention of Significant Deterioration (PSD) requirements once the nonattainment designation is revoked. Because these former nonattainment areas have had historically much higher pollution levels than "attainment" areas, the Department is proposing two more stringent PSD requirements for four former PM10 nonattainment areas and one more stringent requirements for the former Salem ozone nonattainment area. These requirements will provide greater protection to public health and help ensure that these areas comply with the new standards for particulate (PM2.5) and ozone. These revisions will become effective upon revocation of the nonattainment designation for these areas by the Environmental Protection Agency (EPA). Concurrent with EPA's action, this rulemaking will eliminate the nonattainment designations for all seven current PM10 nonattainment areas and Salem ozone nonattainment area. This rulemaking also contains various amendments associated with revocation of the PM10 standard, and includes eliminating the state Total Suspended Particulate (TSP) nonattainment area designation for the three remaining TSP nonattainment areas in Oregon.

Department Recommendation:

It is recommended that the Commission adopt these rule amendments as a revision to the State Implementation Plan, as presented in Attachment A of the Department's Staff Report.

Report Author | Division Administrator | Director

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

Date: November 19, 1998

To: Environmental Quality Commission

From: Langdon Marsh

Subject: Agenda Item **F**, December 11, 1998, EQC Meeting

Adoption of New Source Review/Prevention of Significant Deterioration rule amendments, and miscellaneous revisions associated with revocation of the pre-existing PM10 and ozone standards, as a revision to the State Implementation Plan.

Background

On August 14, 1998, the Director authorized the Air Quality Division to proceed to a rulemaking hearing on proposed rule amendments for new or expanding major industrial sources that emit Particulate Matter under 10 microns in size (PM10), Volatile Organic Compounds (VOC), or Nitrogen Oxides (NOx). Pursuant to EPA's Interim Implementation Guidance, the nonattainment designation will be revoked for those areas that have met the old PM10 and ozone standards. Once the nonattainment designation is revoked by EPA, the stringent New Source Review (NSR) industrial control and offset requirements will be replaced with less stringent Prevention of Significant Deterioration (PSD) requirements. Because these former nonattainment areas have had historically much higher pollution levels than "attainment" areas, the Department is proposing two more stringent PSD requirements for four former PM10 nonattainment areas and one more stringent requirement for the former Salem ozone nonattainment area. The requirements will also help to assure that these areas meet the new ozone and particulate standards.

These revisions will become effective upon revocation of the nonattainment designation for these areas by the Environmental Protection Agency (EPA). Concurrent with EPA's action, this rulemaking will eliminate the nonattainment designations for all seven current PM10 nonattainment areas and Salem ozone nonattainment area. This rulemaking also contains various amendments associated with revocation of the PM10 standard, and includes eliminating the state Total Suspended Particulate (TSP) nonattainment area designation for the three remaining TSP nonattainment areas in Oregon.

Pursuant to the authorization, hearing notice was published in the Secretary of State's Bulletin on September 1, 1998. The Hearing Notice and informational materials were mailed to the mailing list of those persons who have asked to be notified of rulemaking actions, and to a mailing list of persons

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

known by the Department to be potentially affected by or interested in the proposed rulemaking action on August 18, 1998.

Public hearings were held in Salem and Klamath Falls on September 29, 1998, with Barbara Michels and Jeff Ross from the Department serving as Presiding Officers. Written comment was received through October 2, 1998. The Presiding Officer's Report (Attachment C) summarizes the hearings and lists all the written comments received. (A copy of the comments is attached.)

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.

Issue this Proposed Rulemaking Action is Intended to Address

Recent air monitoring shows that Oregon's current seven PM10 nonattainment areas are in compliance with PM10 standards. In the upcoming months EPA will be revoking the "old" PM10 standard and nonattainment area designation for all seven areas, in accordance with EPA's Interim Implementation Guidance for the new particulate standards (PM10 and PM2.5) and the revised 8-hour ozone standard. Earlier this year EPA revoked the 1-hour ozone standard and nonattainment area designation for Salem, as this area demonstrated compliance with the "old" ozone standard.

Under EPA's guidance, once the nonattainment area designation is eliminated, the stringent New Source Review (NSR) requirements that apply to new or expanding major industrial sources will be replaced by less stringent PSD requirements, originally developed for "attainment" areas that never violated air quality standards. In addition, transportation conformity requirements are eliminated for PM10 and ozone in these areas.

The Department is concerned that general PSD requirements will not be protective enough in former nonattainment areas, and points to the fact that the same federal guidance requires former nonattainment areas to keep all existing control measures used for attaining old standards - except for the more stringent NSR requirements. Oregon's former PM10 and Salem ozone nonattainment areas have had historically much higher pollution levels than attainment areas, and are likely to have higher levels in the future that may be close to the new standards. Therefore, in order to be more protective of these airsheds and to avoid falling back into nonattainment, the Department has proposed two more stringent PSD provisions for current PM10 nonattainment areas, and one more stringent PSD provision for the current Salem ozone nonattainment area.

The Department is also proposing to remove the TSP nonattainment designation for the three remaining TSP nonattainment areas in Oregon: Medford-Ashland, Eugene-Springfield, and Portland. If the TSP nonattainment designation is not removed for Medford-Ashland and Eugene-Springfield, NSR rules for new or expanding major industry will continue for TSP emissions, which the Department does not believe is necessary (see discussion under 4b on page 6).

Relationship to Federal and Adjacent State Rules

As mentioned above, federal guidance allows a less stringent approach than that proposed by the Department. It is unknown whether other states are considering the Department's approach, continuing NSR requirements, or following federal guidance.

Although more stringent, the proposed PSD provisions will be much more cost effective for new or expanding major industry than continuing with current NSR requirements for nonattainment areas. Under the Department's NSR rules, new or expanding major industry is required to install the Lowest Achievable Emission Rate (LAER) control technology, and no new emissions are allowed unless they are "offset" by reductions from existing sources. Under the PSD rules for attainment areas, new or expanding major industry is required to install Best Available Control Technology (BACT) and conduct an air quality analysis that shows no adverse impact on air quality from the additional air pollution. Certain source sizes and categories which satisfy the air quality impact requirement can be exempted from BACT. Rather than offsets, new emissions are allowed, but limited to specific amounts known as "PSD increments." The BACT and PSD Increment provisions are the focus of the more stringent PSD requirements that have been proposed by the Department.

These amendments are more stringent than federal requirements in two ways. First, the above exemption to BACT would not be allowed for PM10 sources in the former PM10 nonattainment areas, nor for VOC (volatile organic compounds) and NOx (nitrogen oxide) sources in the former Salem ozone nonattainment area. All new sources (new or expanding major industry) emitting these pollutants in these areas will be subject to BACT. Second, the amount of new PM10 emissions that can be added by PM10 sources in the former PM10 nonattainment areas would be much less (about 75 percent less) than the PSD Increment in attainment areas. Since there are currently no PSD Increments established for ozone, no specific limit for new VOC or NOx emissions was proposed for the Salem area. This is due to the complex nature of ozone formation (high ambient temperatures and other factors).

These more stringent provisions are similar to the Department's carbon monoxide and ozone maintenance area rules (OAR 340-028-1935). These maintenance areas were also former nonattainment areas (Portland and Medford), which under prior federal guidance were required to adopt a ten-year plan to avoid falling back into nonattainment. New and expanding major industry in these areas are also subject to BACT (with no exemption), and must meet the offset requirement as well (more stringent than these amendments).

As mentioned earlier, the Department is concerned that the former nonattainment areas affected by this rulemaking are at greater risk of exceeding the new standards. Should this occur, it would be

much more cost effective for new or expanding major industry to have installed BACT prior to falling back into nonattainment, rather than having to retrofit.

Authority to Address the Issue

ORS 468.020	Rules and Standards
ORS 468A.025	Air Quality Standards
ORS 468A.035	Comprehensive Air Pollution Control Plan
OAR 340-020-0047	State of Oregon Clean Air Act Implementation Plan
42 U.S.C. 7401, etc. seq.	Clean Air Act Amendments of 1990

Process for Development of the Rulemaking Proposal (including Advisory Committee and alternatives considered)

These rules were developed by reviewing each of the current PSD requirements applicable to attainment areas, looking at historical monitoring data, and then evaluating what additional measures would be appropriate for "former" PM10 and ozone nonattainment areas to protect air quality and avoid falling back into nonattainment. Since federal guidance eliminated the requirement for developing maintenance plans, the Department looked at previously adopted rules for carbon monoxide and ozone maintenance areas.

An internal DEQ workgroup from headquarters and regional offices assisted in the development of draft rules. In lieu of an advisory committee, the Department conducted stakeholder review and outreach for these proposed PSD rules, where meetings and discussions where held with representatives from the following groups: (1) Oregon Associated Industries; (2) local major industries; (3) local city government; (4) local air quality committees; (4) Oregon Economic Development Department; (5) the Oregon Chapter Sierra Club; and (6) the Lane Regional Air Pollution Authority. Those identified as "local" were from each respective nonattainment area.

Summary of Rulemaking Proposal Presented for Public Hearing and Discussion of Significant Issues Involved.

Recent air monitoring shows that Oregon's current seven PM10 nonattainment areas are in compliance with the "old" PM10 standard. These areas are Klamath Falls, Lakeview, La Grande, Grants Pass, Eugene-Springfield, Oakridge, and Medford-Ashland. Federal guidance related to transitioning into the revised PM10 standard and new PM2.5 standard establishes procedures for revoking the old PM10 standard and nonattainment designations. This rulemaking will accomplish both of these actions.

The proposed PSD rule amendments would apply to four of the seven PM10 nonattainment areas: Klamath Falls, Lakeview, La Grande and Grants Pass. Two other PM10 nonattainment areas in Lane County, Eugene-Springfield and Oakridge, will be subject to identical PSD requirements being adopted by the Lane Regional Air Pollution Authority. The remaining PM10 nonattainment area,

Medford-Ashland, will continue to be subject to current NSR requirements, as the result of a separate rulemaking adopted at the August 7th EQC meeting.

As mentioned earlier, the Salem ozone nonattainment area has also recently come into compliance with the "old" 1-hour ozone standard. Unlike for the old PM10 standard, the Environmental Protection Agency on its own has revoked the 1-hour ozone standard and nonattainment designation for the Salem area. This rulemaking would eliminate the nonattainment area designation for Salem as a matter of state law.

This rulemaking proposal recommends the following:

1. Eliminate the nonattainment designations for all seven current PM10 nonattainment areas and Salem ozone nonattainment area. (The elimination of the PM10 nonattainment designations would not become effective until final notice in the Federal Register.)

2. Associated with elimination of the nonattainment designation will be removal of Transportation Conformity requirements in these areas for PM10 and ozone. Under the Clean Air Act these requirements apply only to nonattainment areas. To continue to require transportation conformity in former nonattainment areas would mean revising Oregon's rules to subject all federal and non-federal transportation projects to the conformity requirements. This would be a significant burden to these communities. Also, in terms of meeting the new PM2.5 standard, continuing this requirement in these areas may not be necessary, since most emissions from transportation projects are re-entrained road dust, which is more of a PM10 than PM2.5 problem.

3. Amend PSD rules OAR 340-028-1940 to include the following requirements for new or expanding major industrial sources in four "former" PM10 nonattainment areas and the former Salem ozone nonattainment area:

(a) ***No BACT exemption.*** The Department is concerned that general PSD requirements will not be protective enough in these former nonattainment areas, given that areas have had historically much higher pollution levels than attainment areas, and are likely in the future to have higher levels that may be close to the new standards. Therefore, in order to be more protective the Department proposes that no exemption to BACT be allowed in these areas. This is the same requirement for new or expanding major industrial sources as contained in the Department's maintenance area rules (OAR 340-028-1935). The Department anticipates that few sources will be affected by this requirement. Little industrial growth has been occurring in these communities. Some new or expanding sources may even continue to apply LAER controls, as the cost difference between BACT and LAER can be minimal, and many sources now routinely install LAER controls to avoid the need for any future retrofitting.

(b) ***Limits on new PM10 emissions to the airshed.*** The Department believes the former PM10 nonattainment areas have less airshed room for new emissions. However, rather than continue to require emission offsets, the Department believes a small amount of new PM10 emissions should be allowed. The limit proposed in these amendments is about 75 percent less than the

"PSD Increment" for most attainment areas. Since there are currently no PSD Increments established for ozone, no specific limit for new VOC or NOx emissions was proposed for the Salem area. The effect of this limit on new PM10 emissions will be dependent upon the number and size of new or expanding major sources in each community. Although little industrial growth has been occurring in these communities, a significant increase in growth could reach this limit, necessitating the need for offsets, as currently required in the Department's rules for "maintenance areas." Since any new or expanding major sources will be installing BACT or better control technology as described above, new PM10 emissions to the airshed will be minimized, leaving more room for growth.

4. Make the following rule revisions in conjunction with revoking the PM10 and Salem ozone nonattainment designations:

(a) Revise the PM10 Significant Emission Rate (SER) for new or expanding major industry in Klamath Falls and Lakeview area from 5 to 15 tons per year, consistent with the PM10 SER in the other "former" PM10 nonattainment areas, and all attainment areas. The Department does not anticipate small new sources between 5 and 15 tons will cause any significant PM problems in these areas.

(b) Remove the TSP nonattainment designation for the three remaining TSP nonattainment areas in Oregon: Medford-Ashland, Eugene-Springfield, and Portland. In 1987, EPA replaced the TSP standard with the PM10 standard. At that time these communities were TSP nonattainment areas, with Medford-Ashland and Eugene-Springfield becoming PM10 nonattainment areas. When the Department adopted the federal PM10 standard, it retained the TSP standard as a state-only standard. Over the last several years all three of these areas have been well under the TSP standard. The implementation of PM10 control programs in these areas, especially Medford-Ashland and Eugene-Springfield, have had a significant impact on controlling TSP, since PM10 is a major component of TSP. If the TSP nonattainment designation is not removed for Medford-Ashland and Eugene-Springfield, the NSR rules for new or expanding major industries will continue for TSP emissions.

(c) Delete rule references in Division 31 to the above PM10 and TSP nonattainment areas, and Salem ozone nonattainment area.

(d) Delete industrial contingency requirements in OAR 340-021-200 to 340-021-245 for the above PM10 nonattainment areas. These requirements are no longer needed because these areas attained the standard.

Summary of Significant Public Comment and Changes Proposed in Response

No testimony was provided at the two public hearings. The Department received three written comments. Two were in support of the rules, with minor revisions. The third expressed general comments that the Department retain the existing, more stringent requirements.

Below is a summary of the comments offered in response to the proposed rulemaking. A complete summary of these comments and the Department's response are provided in Attachments C and D. Only minor revisions were made in response to the comments received, and are detailed in Attachment E.

1. Clarify that new major VOC or NOx sources in the Salem area which also emit PM10 would not be required to conduct an air quality analysis;

   Department's response: The air quality analysis required under the proposed rules applies only to impacts in the four former PM10 nonattainment areas. However, the Department agreed to clarify this in the proposed rules and has revised the rules to indicate that the air quality analysis requirement would not apply to an any new major VOC or NOx source in the Salem area that also emits PM10.

2. Remove the "source compliance" provision that applies to these former nonattainment areas.

   Department's response: The "source compliance" provision requires that an owner who is proposing new or expanding major source demonstrate that all of their other major sources in the state are in compliance with applicable emission limits or standards. This provision is also found under the Department New Source Review rules for nonattainment areas and maintenance areas. This requirement applies to new and expanding major sources in the areas being addressed by this rulemaking when they were designated nonattainment areas. The Department believes this requirement should continue.

3. Clarify that if "offsets" are provided by a PM10 source, no air quality monitoring will be required.

   Department's response: The option for providing "offsets" in the proposed rules is identical language to that found in the current PSD rules. Exempting sources that provide offsets from the air quality monitoring requirements is not consistent with existing rules. The only provisions that exempt a source from these monitoring requirements are the exemption criteria identified in 340-028-1940 (3).

4. In conjunction with the proposed elimination of TSP nonattainment area designations, delete two specific TSP rule requirements.

   Department's response: At this time the Department is not proposing to revoke any Total Suspended Particulate Standard rule requirements, just the TSP nonattainment designations for Medford-Ashland, Eugene-Springfield, and Portland. The Department may consider eliminating the TSP standard in future rulemaking.

5. The Department should provide the highest protection of air quality possible, and therefore should consider not eliminating the PM10 and ozone nonattainment designations for the communities identified in this rulemaking.

Department's response: Recent air monitoring shows that all PM10 nonattainment areas and Salem ozone nonattainment are in compliance with the pre-existing standards. With respect to the old 1-hour ozone standard, the Environmental Protection Agency has already revoked this standard and nonattainment designation for Salem area. This rulemaking would eliminate the nonattainment area designation for Salem at the state level. With respect to the old PM10 standard, EPA guidance requires all PM10 control measures that resulted in attainment be kept in place in each former nonattainment area. The Department believes both the revised ozone and new PM2.5 standard will be more protective of public health than the "old" standards. Furthermore, the Department can see no justification for not removing the nonattainment designation for these areas, which have successfully demonstrated compliance with standards. The Department believes it is important to acknowledge the hard work and effort these communities have made in recent years to meet these standards.

6. The proposed more stringent PSD requirements may not be stringent enough to protect air quality.

   Department's response: The proposed rules are more stringent than federal requirements. They were developed by reviewing each of the current PSD requirements applicable to attainment areas, looking at historical monitoring data, and then evaluating what additional measures would be needed in these PM10 and ozone nonattainment areas to protect air quality and avoid falling back into nonattainment. The Department also looked at previously adopted rules for "maintenance areas" (carbon monoxide and ozone). New and expanding major industry in these areas are subject to that same BACT requirement as these proposed rules (i.e., no exemption from BACT). Overall, little industrial growth has been occurring in these areas and is expected in the future. Rather than continue to require emission offsets, the Department believes that a small amount of new PM10 emissions should be allowed for growth. The limit proposed in these amendments is about 75 percent less than the "PSD Increment" for attainment areas.

Summary of How the Proposed Rule Will Work and How it Will be Implemented

DEQ regional and headquarters staff will implement the PSD rule requirements being proposed. Implementation guidance is being prepared for staff permit writers and will be presented at the first inspectors training meeting following rule adoption. Staff is already familiar with implementation of existing PSD rules, so no problems are expected.

Recommendation for Commission Action

It is recommended that the Commission adopt these rule amendments as presented in Attachment A of the Department's Staff Report.

Attachments

A. Rule (Amendments) Proposed for Adoption
B. Supporting Procedural Documentation:
   1. Legal Notice of Hearing
   2. Fiscal and Economic Impact Statement
   3. Land Use Evaluation Statement
   4. Questions to be Answered to Reveal Potential Justification for Differing from Federal Requirements
   5. Cover Memorandum from Public Notice
C. Presiding Officer's Report on Public Hearing
D. Department's Evaluation of Public Comment
E. Detailed Changes to Original Rulemaking Proposal made in Response to Public Comment
F. Rule Implementation Plan

Reference Documents (available upon request)

Written Comments are provided in Attachment C.

Approved:

Section:

Division:

Report Prepared By: Brian Finneran

Phone: (503) 229-6278

Date Prepared: November 2, 1998

LTR\AQ76774.DOC

Attachment A

DIVISION 28

STATIONARY SOURCE AIR POLLUTION CONTROL AND PERMITTING PROCEDURES

340-028-0110
Definitions

(110) "Significant emission rate", except as provided in subsections (a) through (c) of this section, means emission rates equal to or greater than the rates specified in **Table 2**.

TABLE 2
OAR 340-028-0110
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_X)	40 tons/year
(C)	Particulate Matter	25 tons/year
(D)	PM_{10}	15 tons/year
(E)	Sulfur Dioxide	40 tons/year
(F)	Volatile Organic Compounds (VOC)	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
(Q)	Municipal waste combustor organics (measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans)	0.0000035 ton/year
(R)	Municipal waste combustor metals (measured as particulate matter)	15 tons/year
(S)	Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride)	40 tons/year
(T)	Municipal solid waste landfill emissions (measured as nonmethane organic compounds)	50 tons/year

(a) For the Medford-Ashland Air Quality Maintenance Area~~, the Klamath Falls Urban Growth Area, and the Lakeview PM_{10} Nonattainment Area~~, the Significant Emission Rate for PM_{10} is defined in **Table 3**. ~~For the Klamath Falls Urban Growth Area, the Significant Emission Rates in Table 3 for PM_{10} apply to all new or modified sources for which permit applications have not been submitted prior to June 2, 1989. For the Lakeview PM_{10} Nonattainment Area, the Significant Emission Rates in Table 3 for particulate matter apply to all new or modified sources~~

~~for which complete permit applications have not been submitted to the Department prior to May 1, 1995.~~

Table 3 OAR 340-028-0110 SIGNIFICANT EMISSION RATES FOR THE MEDFORD-ASHLAND AIR QUALITY MAINTENANCE AREA, ~~THE KLAMATH FALLS URBAN GROWTH AREA, AND THE LAKEVIEW PM_{10} NONATTAINMENT AREA~~			
Air Contaminant	*Emission Rate*		
	Annual	*Day*	*Hour*
PM_{10}	4,500 Kilograms (5.0 tons)	23 Kilograms (50.0 lbs.)	4.6 Kilograms (10.0 lbs.)

(b) For regulated air pollutants not listed 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 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^3 (24 hour average) shall be deemed to be emitting at a significant emission rate.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-020-0047.]

Stat. Auth.: ORS 468.020
Stats. Implemented: ORS 468A.025
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 340-20-033.04; 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; DEQ 2-1992, f. & cert. ef. 1-30-92; DEQ 7-1992, f. & cert. ef. 3-30-92; DEQ 27-1992, f. & cert. ef. 11-12-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-20-145, 340-20-225, 340-20-305, 340-20-355, 340-20-460 & 340-20-520; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 21-1994, f. & cert. ef. 10-14-94; DEQ 24-1994, f. & cert. ef. 10-28-94; DEQ 10-1995, f. & cert. ef. 5-1-95; DEQ 12-1995, f. & cert. ef. 5-23-95; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 22-1996, f. ; DEQ 9-1997, f. & cert. ef. 5-9-97

340-028-1930
Requirements for Sources in Nonattainment Areas

Proposed major sources and major modifications that would emit a nonattainment pollutant within a designated nonattainment area, including VOC or NO_x in a designated Ozone Nonattainment Area, or a specified pollutant in any area listed in section (8) of this rule must 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 emitted at or above the significant emission rate. For a major modification, the requirement for LAER applies only to each new or modified emission unit that increases

emissions. For phased construction projects, the determination of LAER must be reviewed at the latest reasonable time before 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 340-028-1960 and 340-028-1970.

(4) Net Air Quality Benefit. If 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 340-028-1970 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_x offsets will result in a 10% net reduction in emissions, as required by OAR 340-028-1970(3)(c).

(5) Alternative Analysis:

(a) ~~Except as provided in subsection (c) of this section, t~~The owner or operator of the proposed major source or major modification shall conduct an alternative analysis;

(b) This analysis must include an evaluation of alternative sites, sizes, production processes, and environmental control techniques for such proposed source or modification which demonstrates that benefits of the proposed source or modification significantly outweigh the environmental and social costs imposed as a result of its location, construction or modification~~;~~.

~~(c) This analysis is not required for a major source or major modification that is subject to this rule solely due to emissions of particulate matter in a designated TSP nonattainment area.~~

~~(6) Special Exemption for the Salem Ozone Nonattainment Area. Proposed major sources and major modifications which are located in or impact the Salem Ozone Nonattainment Area are exempt from OAR 340-028-1970 and sections (3) through (5) of this rule for VOC and NO_x emissions with respect to ozone formation in the Salem Ozone Nonattainment area.~~

~~(7) Special requirements for the Klamath Falls Urban Growth Area and the Lakeview PM_{10} Nonattainment Area. For the Klamath Falls Urban Growth Area and the Lakeview PM_{10} Nonattainment Area, particulate matter or PM_{10} 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_{10} 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.~~

~~(8)~~ (6) Proposed new major sources and major modifications in the Medford-Ashland Air Quality Maintenance Area (AQMA) with PM_{10} increases in excess of the significant emission rate must meet the requirements of this rule, OAR 340-028-1940 and OAR 340-030-0111.

[NOTE: this rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-020-0047.]

Stat. Auth.: ORS 468.020
Stats. Implemented: ORS 468A.025
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; DEQ4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0240;DEQ

19-1993, f. & cert. ef. 11-4-93; DEQ 10-1995, f. &cert. ef. 5-1-95; DEQ 22-1995, f. &cert. ef. 10-6-95; DEQ 26-1996, f. & cert. ef. 11-26-96

340-028-1935

Requirements for Sources in Maintenance Areas

Proposed major sources and major modifications that would emit a maintenance pollutant within a designated ozone or carbon monoxide maintenance area, including VOC or NO_x in a designated ozone maintenance area, must meet the requirements listed below:

(1) BACT. Except as provided in section (7) of this rule, the owner or operator of the proposed major source or major modification shall apply BACT for each maintenance pollutant emitted at a significant emission rate. For a major modification, the requirement for BACT applies only to each new or modified emission unit that increases emissions. For phased construction projects, the determination of BACT must be reviewed at the latest reasonable time before 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 or Growth Allowance. The owner or operator of the proposed major source or major modification shall provide offsets as specified in OAR 340-028-1960 and 340-028-1970. Except as provided in section (7) of this rule, the requirements of this Section may be met in whole or in part in an ozone or carbon monoxide maintenance area with an allocation by the Department from a growth allowance, if available, in accordance with section (8) of this rule and the applicable maintenance plan in the SIP adopted by the Commission and approved by EPA. An allocation from a growth allowance used to meet the requirements of this section is not subject to OAR 340-028-1960 and 340-028-1970.

(4) Net Air Quality Benefit. If 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 340-028-1970. Applicants in an ozone maintenance area shall demonstrate that the proposed VOC or NO_x offsets will result in a 10% net reduction in emissions, as required by OAR 340-028-1970(3)(c) .

(5) Alternative Analysis:

(a) ~~Except as provided in subsection (c) of this section, t~~The owner or operator of the proposed major source or major modification shall conduct an alternative analysis;

(b) This analysis must include an evaluation of alternative sites, sizes, production processes, and environmental control techniques for such proposed source or modification which demonstrates that benefits of the proposed source or modification significantly outweigh the environmental and social costs imposed as a result of its location, construction or modification~~;~~.

~~(c) This analysis is not required for a major source or major modification that is subject to this rule solely due to emissions of particulate matter in a designated TSP maintenance area.~~

(6) Additional Requirements For Listed Sources. In addition to other requirements of this rule, the following sources must comply with OAR 340-028-1940 for emissions of the maintenance pollutant:

(a) Sources with potential emissions of any regulated air pollutant equal to or greater than 250 tons/year; and

(b) Sources with potential emissions of any regulated air pollutant equal to or greater than 100 tons/year in the following source categories:

(A) Fossil fuel-fired steam electric plants of more than 250 million BTU/hour heat input;

(B) Coal cleaning plants with thermal dryers;

(C) Kraft pulp mills;

(D) Portland cement plants;

(E) Primary Zinc Smelters;

(F) Iron and Steel Mill Plants;

(G) Primary aluminum ore reduction plants;

(H) Primary copper smelters;

(I) Municipal Incinerators capable of charging more than 250 tons of refuse per day;

(J) Hydrofluoric acid plants;

(K) Sulfuric acid plants,

(L) Nitric acid plants;

(M) Petroleum Refineries;

(N) Lime plants;

(O) Phosphate rock processing plants;

(P) Coke oven batteries;

(Q) Sulfur recovery plants;

(R) Carbon black plants, furnace process;

(S) Primary lead smelters;

(T) Fuel conversion plants;

(U) Sintering plants;

(V) Secondary metal production plants;

(W) Chemical process plants;

(X) Fossil fuel fired boilers, or combinations thereof, totaling more than 250 million BTU per hour heat input;

(Y) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(Z) Taconite ore processing plants;

(AA) Glass fiber processing plants;

(BB) Charcoal production plants.

(7) Contingency plan requirements. If the contingency plan in an applicable maintenance plan is implemented due to a violation of an ambient air quality standard, this section applies in addition to other requirements of this rule until the Commission adopts a revised maintenance plan and EPA approves it as a revision to the SIP.

(a) The requirement for BACT in section (1) of this rule is replaced by a requirement for LAER.

(b) An allocation from a growth allowance may not be used to meet the requirement for offsets in section (3) of this rule.

(8) Growth Allowance Allocation.

(a) Medford-Ashland Ozone. The growth allowance in the Medford Maintenance Area for Ozone is allocated on a first-come-first-served basis depending on the date of submittal of a

complete permit application. No single source shall receive an allocation of more than 50% of any remaining growth allowance. The allocation of emission increases from the growth allowance is calculated based on the ozone season (May 1 to September 30 of each year).

(b) Portland Ozone and Carbon Monoxide. Procedures for allocating the growth allowances for the Oregon portion of the Portland-Vancouver Interstate Maintenance Area for Ozone and the Portland Maintenance Area for Carbon Monoxide are contained in OAR 340-030-0730 and 340-030-0740.

(9) Pending Redesignation Requests. This rule does not apply to a proposed major source or major modification for which a complete application to construct was submitted to the Department before the maintenance area was redesignated from nonattainment to attainment by EPA. Such a source is subject to OAR 340-028-1930.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-020-0047.]

Stat. Auth.: ORS 468.020
Stats. Implemented: ORS 468A.025
Hist.: DEQ 26-1996, f. & cert. ef. 11-26-96

340-028-1940
Prevention of Significant Deterioration Requirements for Sources in Attainment or Unclassified Areas

Except as provided in sections ~~(8) and~~ (9) and (10) of this rule, proposed new major sources or major modifications locating in areas designated attainment or unclassifiable must meet the following requirements:

(1) BACT. The owner or operator of the proposed major source or major modification shall apply BACT for each pollutant emitted at a significant emission rate. For a major modification, the requirement for BACT applies only to each new or modified emission unit that increases emissions. For phased construction projects, the determination of BACT must be reviewed at the latest reasonable time before 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 emissions of any pollutant at or above a significant emission rate would not cause or contribute to:

(A) An impact greater than significant air quality impact levels at any locality that does not or would not meet any state or national ambient air quality standard;

(B) An impact in any location in excess of any applicable increment established by the Prevention of Significant Deterioration (PSD) requirements, OAR 340-031-0110; or

(C) An impact greater than significant air quality impact levels on a designated nonattainment area or maintenance area. New sources or modifications of sources which would emit VOC or NO_x which may impact the Salem ~~ozone nonattainment~~ SKATS area are exempt from this 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.

(c) The owner or operator of a source or modification with the potential to emit at rates greater than the significant emission rate but less than 100 tons/year, and which is more than 50 kilometers from a nonattainment or maintenance area, is not required to assess the impact of the source or modification on the nonattainment area or maintenance area.

(d) If the owner or operator of a proposed major source or major modification ~~wishes to~~ provides emission offsets ~~such~~ that result in a net air quality benefit pursuant to OAR 340-028-1970, ~~is provided, the~~ the Department may consider the requirements of this section 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. Except as provided in section (8), ~~A~~ a proposed major source or major modification is exempt from sections (1), (5) and (6) of this rule if subsections (a) and (b) of this section are satisfied:

(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 340-031-0110; or

(C) impact a designated nonattainment or maintenance area; and

(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:

(A) Fossil fuel-fired steam electric plants of more than 250 million BTU/hour heat input;

(B) Coal cleaning plants with thermal dryers;

(C) Kraft pulp mills;

(D) Portland cement plants;

(E) Primary Zinc Smelters;

(F) Iron and Steel Mill Plants;

(G) Primary aluminum ore reduction plants;

(H) Primary copper smelters;

(I) Municipal Incinerators capable of charging more than 250 tons of refuse per day;

(J) Hydrofluoric acid plants;

(K) Sulfuric acid plants,

(L) Nitric acid plants;

(M) Petroleum Refineries;

(N) Lime plants;

(O) Phosphate rock processing plants;

(P) Coke oven batteries;

(Q) Sulfur recovery plants;

(R) Carbon black plants, furnace process;

(S) Primary lead smelters;

(T) Fuel conversion plants;

(U) Sintering plants;

(V) Secondary metal production plants;

(W) Chemical process plants;

(X) Fossil fuel fired boilers, or combinations thereof, totaling more than 250 million BTU per hour heat input;

(Y) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(Z) Taconite ore processing plants;

(AA) Glass fiber processing plants;

(BB) Charcoal production plants.

[Note: Owners or operators of proposed sources which are exempted by this provision may be subject to other applicable requirements including, but not limited to, OAR 340-028-0800 through 340-028-0820, Notice of Construction and Approval of Plans, and OAR 340-028-1700 through 340-028-1790, ACDP.]

(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 40 CFR Part 51, Appendix W, "Guidelines on Air Quality Models (Revised) " (July 1, 1996) . Where an air quality impact model specified in 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, 1996) 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 amount specified in Table 5:

Table 5
OAR 340-028-1940
Significant Monitoring Concentrations

(i) Carbon monoxide - 575 ug/m3, 8 hour average;
(ii) Nitrogen dioxide - 14 ug/m3, annual average;
(iii) Suspended Particulate Matter:
(I) TSP - 10 ug/m3, 24 hour average;
(II) PM_{10} -10 ug/m3, 24 hour average;
(iv) Sulfur dioxide - 13 ug/m3, 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/m3, 24 hour average;
(vii) Mercury - 0.25 ug/m3, 24 hour average;
(viii) Beryllium - 0.0005 ug/m3, 24 hour average;
(ix) Fluorides - 0.25 ug/m3, 24 hour average;
(x) Vinyl chloride - 15 ug/m3, 24 hour average;
(xi) Total reduced sulfur - 10 ug/m3, 1 hour average;
(xii) Hydrogen sulfide - 0.04 ug/m3, 1 hour average;
(xiii) Reduced sulfur compounds - 10 ug/m3, 1 hour average.

(D) When PM_{10} preconstruction monitoring is required by this section, at least four months of data shall be collected including the season(s) which the Department judges to have the highest PM_{10} levels. PM_{10} shall be measured in accordance with 40 CFR part 50, Appendix J (July 1, 1996).

(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 340-028-1910(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) Additional Requirements In Special Areas:

(a) In addition to the other requirements of this rule, proposed major sources and major modifications that would emit PM_{10} in excess of the significant emission rate within the areas identified below shall meet the requirements in subsections (c) through (g) of this section.

(A) The Grants Pass UGB as defined in OAR 340-031-500.

(B) The Klamath Falls UGB as defined in OAR 340-031-500.

(C) The La Grande UGB as defined in OAR 340-031-500.

(D) The Lakeview UGB as defined in OAR 340-031-500.

(b) In addition to the other requirements of this rule, proposed major sources and major modifications that would emit VOC or NO_x in excess of the significant emission rate in the Salem SKATS area, as defined in OAR 340-031-500, shall meet the requirements in subsections (c), (d), and (g) of this section. With respect to ozone formation in the Salem SKATS, these sources are exempt from section (2) of this rule.

(c) BACT. The owner or operator of the proposed major source or major modification shall apply BACT in accordance with section (1) of this rule. The exemption to BACT provided under section (3) of this rule does not apply to areas listed in subsections (a) and (b).

(d) 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.

(e) Air Quality Analysis. In addition to the requirements of subsection (2)(a), the owner or operator of the proposed major source or major modification that would emit PM_{10} in excess of the significant emission rate shall demonstrate that the emissions would not cause or contribute to an ambient air impact in areas listed in subsection (a) of this section that is equal to or greater than 4 micrograms per cubic meter of PM_{10} as an annual arithmetic mean, or 8 micrograms per cubic meter of PM_{10} as a 24-hour average concentration for any calendar day.

(f) If the owner or operator of a proposed major source or major modification provides emission offsets that result in a net air quality benefit pursuant to OAR 340-028-1970, the Department may consider the requirements of section (2) and subsection (e) of this section to have been met.

(g) This rule does not apply to a proposed major source or major modification for which a complete application to construct was submitted to the Department before the PM_{10} or ozone nonattainment area designation for the areas in this section was revoked by EPA. Such a source is subject to OAR 340-028-1930.

~~(8)~~ (9) Except as provided in OAR 340-028-1935(6), this rule does not apply to a maintenance pollutant in a designated ozone or carbon monoxide maintenance area with respect to the maintenance pollutant.

~~(9)~~ (10) Requirements for PM_{10} sources in the Medford-Ashland Air Quality Maintenance Area (AQMA) are as follows:

(a) Except as provided in subsection (b) of this section, this rule does not apply to proposed major sources or major modifications that would emit PM_{10} in excess of the significant emission rate. These sources are subject to the requirements of OAR 340-028-1930, and OAR 340-030-0111.

(b) Proposed major sources or major modifications that would emit PM_{10} in excess of the significant emission rate must comply with sections (2) through (7) of this rule, ~~and~~ OAR 340-028-1930, and OAR 340-030-0111, if the source exceeds the size criteria specified in subsection (3)(b) 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 340-020-0047.]

Stat. Auth.: ORS 468.020
Stat. Implemented: ORS 468A.025
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 5-1986, f. & ef. 2-21-86; DEQ 8-1988, f. &cert. ef. 5-19-88 (and corrected 5-31-88); DEQ 27-1992, f. & cert. ef. 11-12-92; Section (8) renumbered from 340-20-241; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-20-245; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 26-1996, f. & cert. ef. 11-26-96

DIVISION 31

AIR POLLUTION CONTROL STANDARDS FOR AIR PURITY AND QUALITY

The Air Quality Control Regions and Nonattainment and Maintenance Areas of Oregon

340-031-0500
Definitions

As used throughout the State Implementation Plan (SIP) and as specifically referenced in OAR 340, Divisions 20, 21, 22, 25, 28, 30, 31, and 34 and in Section 4 of the SIP:

(1) "AQCR" means Air Quality Control Region.

(2) "AQMA" means Air Quality Maintenance Area.

(3) "CO" means Carbon Monoxide.

(4) "CBD" means Central Business District.

(5) "Criteria Pollutant" means any of the six pollutants set out by the Clean Air Act (sulfur oxides, particulate matter, ozone, carbon monoxide, nitrogen dioxide, and lead) for which the EPA has promulgated standards in **40 CFR 50.4** through 50.12 (July, 1993).

~~(6) "Eugene Springfield AQMA" means the area within the bounds beginning at the northwest corner of Section 6, Township 17 South, Range 4 West; extending south to the southwest corner of Section 6, Township 17 South, Range 4 West; thence east to the northwest corner of Section 8, Township 17 South, Range 4 West; thence south to the southwest corner of Section 32, Township 17 South, Range 4 West; thence east to the northeast corner of Section 4, Township 18 South, Range 4 West; thence south to the southwest corner of Section 3, Township 18 South, Range 4 West; thence east to the northwest corner of Section 12, Township 18 South, Range 4 West; thence south to the southwest corner of Section 13, Township 18 South, Range 4 West; thence east to the northeast corner of Section 24, Township 18 South, Range 4 West; thence south to the southeast corner Section 24, Township 18 South, Range 4 West; thence east to the northeast corner of Section 21, Township 18 South, Range 3 West; thence north to the northeast corner of Section 21, Township 18 South, Range 3 West; thence east to the northeast corner of Section 22, Township 18 South, Range 3 West; thence south to the southwest corner of Section 23, Township 18 South, Range 3 West; thence east to the southeast corner of Section 24, Township 18 South, Range 3 West; thence north to the southeast corner of Section 1, Range 3 West; thence east to the southeast corner of Section 2, Township 18 South, Range 2 West; thence north to the northeast corner of Section 26, Township 17 South, Range 2 West; thence west to the southwest corner of Section 20, Township 17 South, Range 2 West; thence north to the northwest corner of Section 20, Township 17 South, Range 2 West; thence west to the southwest corner of Section 13, Township 17 South, Range 3 West; thence north to the northwest corner of Section 13, Township 17 South, Range 3 West; thence west to the northwest corner of Section 13, Township 17 South, Range 3 West; thence west to the southwest corner of Section 11, Township 17 South, Range 3 West; thence north to the northwest corner of Section 11, Township 17 South, Range 3 West; thence west to the southwest corner of Section 6, Township 17 South, Range 3 West; thence north to the northwest corner of Section 31, Township 16 South, Range 3~~

~~West; thence west to the northwest corner of Section 34, Township 16 South, Range 4 West; thence west to the point of beginning.~~

~~(7)~~(6) "Eugene-Springfield UGA" means the area within the bounds beginning at the Willamette River at a point due east from the intersection of East Beacon Road and River Loop No.1; thence southerly along the Willamette River to the intersection with Belt Line Road; thence easterly along Belt Line Road approximately one-half mile to the intersection with Delta Highway; thence northwesterly and then northerly along Delta Highway and on a line north from the Delta Highway to the intersection with the McKenzie River; thence generally southerly and easterly along the McKenzie River approximately eleven miles to the intersection with Marcola Road; thence southwesterly along Marcola Road to the intersection with 42nd Street; thence southerly along 42nd Street to the intersection with the northern branch of US Highway 126; thence easterly along US Highway 126 to the intersection with 52nd Street; thence north along 52nd Street to the intersection with High Banks Road; thence easterly along High Banks Road to the intersection with 58th Street; thence south along 58th Street to the intersection with Thurston Road; thence easterly along Thurston Road to the intersection with the western boundary of Section 36, T17S, R2W; thence south to the southwest corner of Section 36, T17S, R2W; thence west to the Springfield City Limits; thence following the Springfield City Limits southwesterly to the intersection with the western boundary of Section 2, T18S, R2W; thence on a line southwest to the Private Logging Road approximately one-half mile away; thence southeasterly along the Private Logging Road to the intersection with Wallace Creek; thence southwesterly along Wallace Creek to the confluence with the Middle Fork of the Willamette River; thence generally northwesterly along the Middle Fork of the Willamette River approximately seven and one-half miles to the intersection with the northern boundary of Section 11, T18S, R3W; thence west to the northwest corner of Section 10, T18S, R3W; thence south to the intersection with 30th Avenue; thence westerly along 30th Avenue to the intersection with the Eugene City Limits; thence following the Eugene City Limits first southerly then westerly then northerly and finally westerly to the intersection with the northern boundary of Section 5, T18S, R4W; thence west to the intersection with Greenhill Road; thence north along Greenhill Road to the intersection with Barger Drive; thence east along Barger Drive to the intersection with the Eugene City Limits (Ohio Street); thence following the Eugene City Limits first north then east then north then east then south then east to the intersection with Jansen Drive; thence east along Jansen Drive to the intersection with Belt Line Road; thence northeasterly along Belt Line Road to the intersection with Highway 99; thence northwesterly along Highway 99 to the intersection with Clear Lake Road; thence west along Clear Lake Road to the intersection with the western boundary of Section 9, T17S, R4W; thence north to the intersection with Airport Road; thence east along Airport Road to the intersection with Highway 99; thence northwesterly along Highway 99 to the intersection East Enid Road; thence east along East Enid Road to the intersection with Prairie Road; thence southerly along Prairie Road to the intersection with Irvington Road; thence east along Irvington Road to the intersection with the Southern Pacific Railroad Line; thence southeasterly along the Southern Pacific Railroad Line to the intersection with Irving Road; thence east along Irving Road to the intersection with Kalmia Road; thence northerly along Kalmia Road to the intersection with Hyacinth Road; thence northerly along Hyancinth Road to the intersection with Irvington Road; thence east along Irvington Road to the intersection with Spring Creek; thence northerly along Spring Creek to the intersection with River Road; thence northerly along River Road to the intersection with East Beacon Drive; thence following East Beacon Drive first east then south then east to the intersection with River Loop No.1; thence on a line due east to the Willamette River and the point of beginning.

~~(8)~~(7) "Grants Pass CBD" means the area within the City of Grants Pass enclosed by "B" Street on the north, 8th Street to the east, "M" Street on the south, and 5th Street to the west.

~~(9)~~(8) "Grants Pass UGB" as shown on the Plan and Zoning maps for the City of Grants Pass as of Feb. 1, 1988 is the area within the bounds beginning at the NW corner of Sec. 7, T36S, R5W; thence south to the SW corner of Sec. 7; thence west along the southern boundary of Sec. 12, T36S, R5W approx. 2000 feet; thence south approx. 100 feet to the northern right of way of the Southern Pacific Railroad Line (SPRR Line); thence southeasterly along said right of way approx. 800 feet; thence south approx. 400 feet; thence west approx. 1100 feet; thence south approx. 700 feet to the intersection with the Hillside Canal; thence west approx. 100 feet; thence south approx. 550 feet to the intersection with Upper River Road; thence southeasterly along Upper River Road and continuing east along Old Upper River Road approx.

700 feet; thence south approx. 1550 feet; thence west approx. 350 feet; thence south approx. 250 feet; thence west approx. 1000 feet; thence south approx. 600 feet to the north end of Roguela Lane; thence east approx. 400 feet; thence south approx. 1400 feet to the intersection with Lower River Road; thence west along Lower River Road approx. 1400 feet; thence south approx. 1350 feet; thence west approx. 25 feet; thence south approx. 1200 feet to the south bank of the Rogue River; thence northwesterly along said bank approx. 2800 feet; thence on a line southwesterly and parallel to Parkhill Place approx. 600 feet; thence northwesterly at a 90 degree angle approximately 300 feet to the intersection with Parkhill Place; thence southwesterly along Parkhill Place approx. 250 feet; thence on a line southeasterly forming a 90 degree angle approximately 300 feet to a point even with Leonard Road; thence west approx. 1500 feet along Leonard Road; thence north approx. 200 feet; thence west to the west side of Schroeder Lane; thence north approx. 150 feet; thence west approx. 200 feet; thence south to the intersection with Leonard Road; thence west along Leonard Road approx. 450 feet; thence north approx. 300 feet; thence east approx. 150 feet; thence north approx. 400 feet; thence west approx. 500 feet; thence south approx. 300 feet; thence west to the intersection with Coutant Lane; thence south along Coutant Lane to the intersection with Leonard Road; thence west along Leonard Road to the intersection with Buena Vista Lane; thence north along the west side of Buena Vista Lane approx. 200 feet; thence west approx. 150 feet; thence north approx. 150 feet; thence west approx. 200 feet; thence north approx. 400 feet; thence west approx. 600 feet to the intersection with the western boundary of Sec. 23, T36S, R6W; thence south to the intersection with Leonard Road; thence west along Leonard Road approx. 300 feet; thence north approx. 600 feet to the intersection with Darneille Lane; thence northwesterly along Darneille Lane approx. 200 feet; thence west approx. 300 feet; thence south approx. 600 feet to the intersection with Leonard Road; thence west along Leonard Road approx. 700 feet; thence south approx. 1350 feet; thence east approx. 1400 feet to the intersection with Darneille Lane; thence south along Darneille Lane approx. 600 feet; thence west approx. 300 feet; thence south to the intersection with Redwood Avenue; thence east along Redwood Avenue to the intersection with Hubbard Lane and the western boundary of Sec. 23, T36S, R6W; thence south along Hubbard Lane approx. 1850 feet; thence west approx. 1350 feet ; thence south to the south side of U.S. Highway 199; thence westerly along U.S. 199 approx. 1600 feet to the intersection with the north-south midpoint of Sec. 27, T36S, R6W; thence south approx. 2200 feet; thence east approx. 1400 feet; thence north approx. 1000 feet; thence east approx. 300 feet; thence north approx. 250 feet to the intersection with the Highline Canal; thence northerly along the Highline Canal approx. 900 feet; thence east to the intersection with Hubbard Lane; thence north along Hubbard Lane approximately 600 feet; thence east approx. 200 feet; thence north approx. 400 feet to a point even with Canal Avenue; thence east approx. 550 feet; thence north to the south side of U.S. 199; thence easterly along the southern edge of U.S. 199 to the intersection with Willow Lane; thence south along Willow Lane to the intersection with Demaray Drive; thence easterly along Demaray Drive and continuing along the southern edge of U.S. 199 to the intersection with Dowell Road; thence south along Dowell Road approx. 550 feet; thence easterly approx. 750 feet; thence north to the intersection with the South Canal; thence easterly along the South Canal to the intersection with Schutzwohl Lane; thence south approx. 1300 feet to a point even with West Harbeck Road; thence east approx. 2000 feet to the intersection with Allen Creek; thence southerly along Allen Creek approx. 1400 feet to a point even with Denton Trail to the west; thence west to the intersection with Highline Canal; thence southerly along Highline Canal to the intersection with the southern boundary of Sec. 25, T36S, R6W; thence east to the intersection with Allen Creek; thence southerly along Allen Creek to the intersection with the western boundary of Sec. 31, T36S, R5W; thence south to the SW corner of Sec. 31; thence east to the intersection with Williams Highway; thence southeasterly along Williams Highway approx. 1300 feet; thence east approx. 200 feet; thence north approx. 400 feet; thence east approx. 700 feet; thence north to the intersection with Espey Road; thence west along Espey Road approx. 150 feet; thence north approx. 600 feet; thence east approx. 300 feet; thence north approx. 2000 feet; thence west approx. 2100 feet; thence north approx. 1350 feet; thence east approx. 800 feet; thence north approx. 2800 feet to the east-west midline of Sec. 30, T36S, R5W; thence on a line due NE approx. 600 feet; thence north approx. 100 feet; thence east approx. 600 feet; thence north approx. 100 feet to the intersection with Highline Canal; thence easterly along Highline Canal approx. 1300 feet; thence south approx. 100 feet; thence east to the intersection with Harbeck Road; thence north along Harbeck Road to the intersection with Highline Canal; thence easterly along Highline Canal to a point approx. 250 feet beyond Skyway Road; thence south to the intersection with Skyway Road; thence east to the intersection

with Highline Canal; thence southeasterly along Highline Canal approx. 1200 feet; thence on a line due SW to the intersection with Bluebell Lane; thence southerly along Bluebell Lane approx. 150 feet; thence east to the intersection with Sky Crest Drive; thence southerly along Sky Crest Drive to the intersection with Harper Loop; thence southeasterly along Harper Loop to the intersection with the east-west midline of Sec. 29, T36S, R5W; thence east approx. 400 feet; thence south approx. 1300 feet to a point even with Troll View Road to the east; thence east to the intersection with Hamilton Lane; thence north along Hamilton Lane to the intersection with the Highline Canal; thence northeasterly along the Highline Canal to the northern boundary of Sec. 28, T36S, R5W; thence east approx. 1350 feet to the transmission line; thence north to the intersection with Fruitdale Drive; thence southwesterly along Fruitdale Drive approx. 700 feet; thence north to the northern edge of U.S. 199; thence easterly along the northern edge of U.S. 199 approx. 50 feet; thence north to the north bank of the Rogue River; thence northeasterly along the north bank of the Rogue River approx. 2100 feet to a point even with Ament Road; thence north to Ament Road and following Ament Road to U.S. Interstate Highway 5 (U.S. I-5); thence continuing north to the 1200 foot contour line; thence following the 1200 foot contour line northwesterly approx. 7100 feet to the city limits and a point even with Savage Street to the west; thence north following the city limits approx. 400 feet; thence west to the intersection with Beacon Street; thence north along Beacon Street and the city limits approx. 250 feet; thence east along the city limits approx. 700 feet; thence north along the city limits approx. 2200 feet; thence southwesterly along the city limits approximately 800 feet to the intersection with the 1400 foot contour line; thence northerly and northwesterly along the 1400 foot contour line approx. 900 feet to the intersection with the northern boundary of Sec. 9, T36S, R5W; thence west along said boundary approx. 100 feet to the NW corner of Sec. 9; thence south along the western boundary of Sec. 9 approx. 700 feet; thence west approx. 1400 feet; thence north approx. 2400 feet; thence west approx. 1350 feet; thence north approx. 1100 feet to the city limits; thence following the city limits first west approx. 1550 feet, then south approx. 800 feet, then west approx. 200 feet, then south approx. 200 feet, then east approx. 200 feet, then south approx. 300 feet, and finally westerly approx. 1200 feet to the intersection with the western boundary of Sec. 5, T36S, R5W; thence south along said boundary to the northern side of Vine Avenue; thence northwesterly along the northern side of Vine Avenue approx. 3150 feet to the intersection with the west fork of Gilbert Creek; thence north to the intersection with the southern right of way of U.S. I-5; thence northwesterly along said right of way approx. 1600 feet; thence south to the intersection with Old Highland Avenue; thence northwesterly along Highland Avenue approx. 650 feet; thence west approx. 350 feet; thence south approx. 1400 feet; thence east approx. 700 feet; thence south approx. 1000 feet; thence on a line SW approx. 800 feet; thence south approx. 1400 feet to the intersection with the northern boundary of Sec. 7, T36S, R5W; thence west to the NW corner of Sec. 7, the point of beginning.

~~(10)~~(9) "Klamath Falls UGB" means the area within the bounds beginning at the southeast corner of Section 36, Township 38 South, Range 9 East; thence northerly approximately 4500 feet; thence westerly approximately 1/4 mile; thence northerly approximately 3/4 mile into Section 25, T38S, R9E; thence westerly approximately 1/4 mile; thence northerly approximately 1/2 mile to the southern boundary of Section 24, T38S, R9E; thence westerly approximately 1/2 mile to the southeast corner of Section 23, T38S, R9E; thence northerly approximately 1/2 mile; thence westerly approximately 1/4 mile; thence northerly approximately 1/2 mile to the southern boundary of Section 14, T38S, R9E; thence generally northwesterly along the 5000 foot elevation contour line approximately 3/4 mile; thence westerly 1 mile; thence north to the intersection with the northern boundary of Section 15, T38S, R9E; thence west 1/4 mile along the northern boundary of Section 15, T38S, R9E; thence generally southeasterly following the 4800 foot elevation contour line around the old Oregon Institute of Technology Campus to meet with the westerly line of Old Fort Road in Section 22, T38S, R9E; thence southwesterly along the westerly line of Old Fort Road approximately 1 and 1/4 miles to Section 27, T38S, R9E; thence west approximately 1/4 mile; thence southwesterly approximately 1/2 mile to the intersection with Section 27, T38S, R9E; thence westerly approximately 1/2 mile to intersect with the Klamath Falls City Limits at the northerly line of Loma Linda Drive in Section 28, T38S, R9E; thence northwesterly along Loma Linda Drive approximately 1/4 mile; thence southwesterly approx-imately 1/8 mile to the Klamath Falls City Limits; thence northerly along the Klamath Falls City Limits approximately 1 mile into Section 21, T38S, R9E; thence westerly approximately 1/4 mile; thence northerly approximately 1 mile into Section 17, T38S, R9E; thence westerly approximately 3/4 mile into Section 17, T38S, R9E; thence northerly approximately 1/4 mile;

thence westerly approximately 1 mile to the west boundary of Highway 97 in Section 18, T38S, R9E; thence southeasterly along the western boundary of Highway 97 approximately 1/2 mile; thence southwesterly away from Highway 97; thence southeasterly to the intersection with Klamath Falls City Limits at Front Street; thence westerly approximately 1/4 mile to the western boundary of Section 19, T38S, R9E; thence southerly approximately 1 and 1/4 miles along the western boundary of Section 19, T38S, R9E and the Klamath Falls City Limits to the south shore line of Klamath Lake; thence northwesterly along the south shore line of Klamath Lake approximately 1 and 1/4 miles across Section 25, T38S, R9E and Section 26, T38S, R9E; thence westerly approximately 1/2 mile along Section 26, T38S, R9E; thence southerly approximately 1/2 mile to Section 27, T38S, R9E to the intersection with eastern boundary of Orindale Draw, thence southerly along the eastern boundary of Orindale Draw approximately 1 and 1/4 miles into Section 35, T38S, R9E; thence southerly approximately 1/2 mile into Section 2, T39S, R8E; thence easterly approximately 1/4 mile; thence northerly approximately 1/4 mile to the southeast corner of Section 35, T38S, R8E and the Klamath Falls City Limits; thence easterly approximately 1/2 mile to the northern boundary of Section 1, T38S, R8E; thence southeasterly approximately 1/2 mile to Orindale Road; thence north 500 feet along the west side of an easement; thence easterly approximately 1 and 1/4 miles through Section 1, T38S, R8E to the western boundary of Section 6, T39S, R9E; thence southerly approximately 3/4 mile to the southwest corner of Section 6, T39S, R9E; thence easterly approximately 1/8 mile to the western boundary of Highway 97; thence southwesterly along the Highway 97 right-of-way approximately 1/4 mile; thence westerly approximately 1/2 mile to Agate Street in Section 7, T39S, R8E; thence northerly approximately 1/4 mile; thence westerly approximately 3/4 mile to Orindale Road in Section 12, T39S, R8E; thence northerly approximately 1/4 mile into Section 1, T39S, R8E; thence westerly approximately 3/4 mile to the Section 2, T39S, R8E boundary line; thence southerly approximately 3/4 mile along the Section 2, T39S, R8E boundary line to the northwest corner of Section 12, T39S, R8E; thence westerly approximately 1/8 mile into Section 11, T39S, R8E; thence southerly approximately 1/8 mile; thence northeasterly approximately 3/4 mile to the southern boundary of Section 12, T39S, R8E at Balsam Drive; thence southerly approximately 1/4 mile into Section 12, T39S, R8E; thence easterly approximately 1/4 mile to Orindale Road; thence southeasterly approximately 500 feet to Highway 66; thence southwesterly approximately 1/2 mile along the boundary of Highway 66 to Holiday Road; thence southerly approximately 1/2 mile into Section 13, T39S, R8E; thence northeasterly approximately 1/4 mile to the eastern boundary of Section 13, T39S, R8E; thence northerly approximately 1/4 mile along the eastern boundary of Section 13, T39S, R8E; thence westerly approximately 1/4 mile to Weyerhaeuser Road; thence northerly approximately 1/8 mile; thence easterly approximately 1/8 mile; thence northerly approximately 1/8 mile; thence westerly approximately 1/8 mile to Farrier Avenue; thence northerly approximately 1/4 mile; thence easterly approximately 1/4 mile to the eastern boundary of Section 13, T39S, R8E; thence northerly approximately 1/8 mile along the eastern boundary of Section 13, T39S, R8E; thence easterly approximately 1/4 mile along the northern section line of Section 18, T39S, R8E; thence southerly approximately 1/4 mile; thence easterly approximately 1/2 mile to the boundary of Highway 97; thence southerly approximately 1/3 mile to the Burlington Northern Right-of-Way; thence northeasterly approximately 1 and 1/3 miles along the high water line of the Klamath River to the Southside Bypass in Section 8, T39S, R9E; thence southeasterly along the Southside Bypass to the Southern Pacific Right-of-Way in Section 9, T39S, R9E; thence southerly approximately 1/2 mile along the Southern Pacific Right-of-Way; thence southwesterly approximately 1/4 mile along the Midland Highway; thence southeasterly approximately 1/4 mile to the old railroad spur; thence easterly 1/4 mile along the old railroad spur; thence southerly approximately 1/4 mile in Section 16, T39S, R9E; thence westerly approximately 1/3 mile; thence southerly approximately 1/4 mile; thence easterly approximately 1/16 mile in Section 21, T39S, R9E; thence southerly approximately 1/8 mile to the Lost River Diversion Channel; thence southeasterly approximately 1/4 mile along the northern boundary of the Lost River Diversion Channel; thence easterly approximately 3/4 mile along Joe Wright Road into Section 22, T39S, R9E; thence southeasterly approximately 1/8 mile on the eastern boundary of the Southern Pacific Right-of-Way; thence southeasterly approximately 1 mile along the western boundary of the Southern Pacific Right-of-Way across Section 22, T39S, R9E and Section 27, T39S, R9E to a point 440 yards south of the northern boundary of Section 27, T39S, R9E; thence easterly to Kingsley Field; thence southeasterly approximately 3/4 mile to the southern boundary of Section 26, T39S, R9E; thence east approximately 1/2 mile along the southern boundary of Section 26, T39S, R9E to a pond; thence north-northwesterly for 1/2

mile following the Klamath Falls City Limits; thence north 840 feet; thence east 1155 feet to Homedale Road; thence north along Homedale Road to a point 1/4 mile north of the southern boundary of Section 23, T39S, R9E; thence west 1/4 mile; thence north 1 mile to the Southside Bypass in Section 14, T39S, R9E; thence east 1/2 mile along the Southside Bypass to the eastern boundary of Section 14, T39S, R9E; thence north 1/2 mile; thence east 900 feet into Section 13, T39S, R9E; thence north 1320 feet along the USBR 1-C 1-A to the southern boundary of Section 12, T39S, R9E; thence north 500 feet to the USBR A Canal; thence southeasterly 700 feet along the southern border of the USBR A Canal back into Section 13, T39S, R9E; thence southeast 1600 feet to the northwest parcel corner of an easement for the Enterprise Irrigation District; thence east-northeast 2200 feet to the eastern boundary of Section 13, T39S, R9E; thence north to the southeast corner of Section 12, T39S, R9E; thence along the Enterprise Irrigation Canal approximately 1/2 mile to Booth Road; thence east 1/2 mile to Vale Road; thence north 1 mile to a point in Section 6, T39S, R10E that is approximately 1700 feet north of the southern boundary of Section 6, T39S, R10E; thence west approximately 500 feet; thence south approximately 850 feet; thence west approximately 200 feet; thence north approximately 900 feet; thence west approximately 1600 feet to the western boundary of Section 6, T39S, R10E; thence north approximately 1/2 mile to the southeast corner of Section 36, T38S, R9E, the point of beginning.

~~(11)~~(10) "LaGrande UGB" means the area within the bounds beginning at the point where U.S. Interstate 84 (I-84) intersects Section 31, Township 2 South, Range 38 East; thence east along I-84 to the Union County Fairgrounds; thence north and then east on a line encompassing the Union County Fairgrounds to the intersection with Cedar Street; thence further east approximately 500 feet, encompassing two (2) residential properties; thence on a line south to the intersection with the northern bank of the Grande Ronde River; thence westerly along the northern bank of the Grande Ronde River to the intersection with the western edge of Mount Glenn Road and Riverside Park; thence north along the western edge of Mount Glenn Road and Riverside Park to the intersection with Fruitdale Road; thence east along Fruitdale Road and the northern boundary of Riverside Park to the eastern boundary of Riverside Park; thence south along the eastern boundary of Riverside Park to the north bank of the Grande Ronde River; thence on a line southeast to the intersection with the northern edge of I-84; thence easterly along the northern edge of I-84 to May Street; thence easterly along May Street to the intersection with State Highway 82; thence northeasterly along State Highway 82 to the a point approximately 1/4 mile from the eastern edge of Section 4, T3S, R38E; thence south to the intersection with Section 9, T3S, R38E, and the southern edge of Buchanan Avenue; thence west along the southern edge of Buchanan Avenue to the intersection with the northern edge of I-84; thence on a line south to the southern edge of I-84; thence southeasterly along the southern edge of I-84 approximately 2500 feet; thence on a line due west approximately 1400 feet; thence on a line due south to the intersection with the Union Pacific Railroad Line; thence southeasterly along the Union Pacific Railroad Line to the intersection with Gekeler Lane; thence west along Gekeler Lane to the intersection with U.S. Highway 30; thence southeast along U.S. Highway 30 to the intersection with the western boundary of Section 15, T3S, R38E; thence on a line west following existing property boundaries approximately 2900 feet; thence on a line north following existing property boundaries approximately 250 feet; thence on a line east following existing property boundaries approximately 650 feet; thence north on a line to the intersection with Gekeler Lane; thence west along Gekeler Lane to the intersection with 20th Avenue; thence south along 20th Avenue to the intersection with Foothill Road; thence southeasterly along Foothill Road approximately 2900 feet; thence on a line west following existing property boundaries approxi-mately 1250 feet; thence on a line south following existing property boundaries approximately 1250 feet; thence on a line west following existing property boundaries approximately 1250 feet; thence on a line north following existing property boundaries approximately 450 feet to the intersection with the southernmost part of the La Grande City Limits; thence westerly and northwesterly along the southernmost part of the La Grande City Limits approximately 1100 feet to the intersection with the 3000 foot elevation contour line; thence westerly following the 3000 foot elevation contour line and existing property boundaries approximately 2200 feet; thence on a line north following existing property boundaries approximately 1900 feet; thence on a line west following existing property boundaries approximately 500 feet; thence on a line north to the LaGrande City Limits; thence west along the LaGrande City Limits and following existing property boundaries approximately 650 feet; thence on a line south following existing property boundaries approximately 900 feet; thence on a line west following existing property boundaries approximately 1250 feet; thence on a line north to the intersection

with the La Grande City Limits; thence west along the southern boundary of the La Grande City Limits to the intersection with the western boundary of the La Grande City Limits; thence north along the western boundary of the La Grande City Limits and following existing property lines approximately 500 feet; thence on a line west following existing property boundaries approxi-mately 200 feet; thence on a line north following existing property boundaries approximately 700 feet; thence east to the first 3000 foot elevation contour line west of the La Grande City Limits; thence northerly following that 3000 foot elevation contour line to the intersection with Deal Canyon Road; thence easterly along Deal Canyon Road to the intersection with the western boundary of the LaGrande City Limits; thence northerly along the western boundary of the LaGrande City Limits to the intersection with U.S. Highway 30; thence northwesterly along U.S. Highway 30 and following existing property boundaries approximately 1400 feet; thence on a line west to the intersection with the western boundary of Section 6, T3S, R38E; thence north along the western boundaries of Section 6, T3S, R38E and Section 31, T2S, R38E to the point of beginning.

~~(12)~~(11) "Lakeview UGB" means the area beginning at the corner common to sections 21, 22, 27, and 28, T39S, R20E; thence north on the section line between section 21 and 22 to the section corner common to section 15, 16, 21, and 22; thence west along the section line between section 21 and 16 to the section corner common to sections 16, 17, 20, and 21; thence north along the section line between section 16 and 17 approximately 3550 feet to the east branch of Thomas Creek; thence northwesterly along the east branch of Thomas Creek to the center line of Highway 140; thence east along the center line of Highway 140 to the section corner common to sections 8, 9, 16, and 17, T39S, R20E; thence north along the section line between sections 8 and 9 to the section corner common to sections 4, 5, 8, and 9, T39S, R20E; thence north along the section line between section 4 and 5 to the section corner common to section 4 and 5, T39S, R20E and sections 32 and 33, T38S, R20E; thence east along the section line between sections 4 and 33 to the section corner common to sections 3 and 4, T39S, R20E and sections 33 and 34, T38S, R20E; thence south along the eastern boundary of section 4 approximately 4,1318.6 feet; thence S 89 degrees, 11 minutes W 288.28 feet to the east right of way line of the old Paisley/Lakeview Highway; thence S 21 degrees, 53 minutes E along the eastern right of way of the old Paisley/Lakeview Highway 288.4 feet; thence S 78 degrees, 45 minutes W 1375 feet; thence S 3 degrees, 6 minutes, and 30 seconds W 200 feet; thence S 77 degrees, 45 minutes W 136 feet to the east right of way line of U.S. Highway 395; thence southeasterly along the east right of way line of U.S. Highway 395 53.5 feet; thence N 77 degrees, 45 minutes E 195.6 feet; thence S 38 degrees, 45 minutes E 56.8 feet; thence S 51 degrees, 15 minutes W 186.1 feet to the east right of way of U.S. Highway 395; thence southeast along the eastern right of way line of U.S. Highway 395 2310 feet; thence N 76 degrees, 19 minutes 544.7 feet; thence S 13 degrees, 23 minutes, 21 seconds E 400 feet; thence N 63 degrees, 13 minutes E 243.6 feet to the western line of the old American Forest Products Logging Road; thence southeast along the old American Forest Products Logging Road to the western line of the northeast quadrant of the northwest quadrant of section 10, T39S, R20E; thence southeast to a point on the south line of the northeast quadrant of the northwest quadrant of Section 10, T39S, R20E (this point also bears N 89 degrees, 33 minutes E 230 feet from the center line of U.S. Highway 395); thence south on a line parallel to the east right of way line of U.S. Highway 395 to the south line of the northwest quadrant of section 10, T39S, R20E; thence south 491 feet to the east right of way of U.S. Highway 395; thence southeasterly following the east right of way of U.S. Highway 395 255 feet to the south line of the northeast quadrant of the northeast quadrant of the southwest quadrant of section 10, T39S, R20E; thence east along that south line to the center line of section 10, T39S, R20E; thence continuing east along the same south line to the eastern boundary of section 10, T39S, R20E; thence south along the eastern boundary of section 10 to the section corner common to sections 10, 11, 14, and 15, T39S, R20E; thence south along the section line between section 14 and 15 to the section corner common to sections 14, 15, 22, and 23, T39S, R20E; thence west along the section line between sections 15 and 22 to the northwest corner of the northeast quadrant of the northeast quadrant of section 22, T39S, R20E; thence south along the eastern line of the western half of the eastern half of section 22 to the southern boundary of section 22, T39S, R20E; thence west along the southern boundary of section 22 to the point of beginning.

~~(13)~~(12) "Maintenance Area" means any area that was formerly nonattainment for a criteria pollutant but has since met EPA promulgated standards and has had a maintenance plan to stay within the standards approved by the EPA pursuant to **40 CFR 51.110** (July, 1993).

~~(14)~~(13) "Medford-Ashland AQMA" means the area defined as beginning at a point approximately one mile northeast of the town of Eagle Point, Jackson County, Oregon at the northeast corner of Section 36, Township 35 South, Range 1 West; thence southeast along the Willamette Meridian to the southeast corner of Section 25, Township 37 South, Range 1 West; thence southeast along a line to the southeast corner of Section 9, Township 39 South, Range 2 East; thence south-southeast to the corner of Section 27, Township 39 South, Range 2 East; thence southwest to the southeast corner of Section 33, Township 39 South, Range 2 East; thence west to the southwest corner of Section 31, Township 39 South, Range 2 East; thence northwest to the northwest corner of Section 36, Township 39 South, Range 1 East; thence west to the southwest corner of Section 26, Township 39 South, Range 1 East; thence northwest along a line to the southeast corner of Section 7, Township 39 South, Range 1 East; thence west to the southwest corner of Section 12, Township 39 South, Range 1 West; thence northwest along a line to the southwest corner of Section 20, Township 38 South, Range 1 West; thence west to the southwest corner of Section 24, Township 38 South, Range 2 West; thence northwest along a line to the southwest corner of Section 4, Township 38 South, Range 2 West; thence west to the southwest corner of Section 5, Township 38 South, Range 2 West; thence northwest along a line to the southwest corner of Section 31, Township 37 South, Range 2 West; thence north along a line to the Rouge River, thence north and east along the Rouge River to the north boundary of Section 32, Township 35 South, Range 1 West; thence east along a line to the point of beginning.

~~(15)~~(14) "Medford-Ashland CBD" means the area beginning at the intersection of Crater Lake Highway (Highway 62) south on Biddle Road to the intersection of Fourth Street, west on Fourth Street to the intersection with Riverside Avenue (Highway 99), south on Riverside Avenue to the intersection with Tenth Street, west on Tenth Street to the intersection with Oakdale Avenue, north on Oakdale Avenue to the intersection with Fourth Street, east on Fourth Street to the intersection with Central Avenue, north on Central Avenue to the intersection with Court Street, north on Court Street to the intersection with Crater Lake Highway (Highway 62) and east on Crater Lake Highway to the point of beginning, with extensions along McAndrews Road east from Biddle Road to Crater Lake Avenue, and along Jackson Street east from Biddle Road to Crater Lake Avenue.

NOTE: This definition also marks the area where indirect sources are required to have indirect source construction permits in the Medford area. See OAR 340-020-0115.

~~(16)~~(15) "Medford UGB" means the area beginning at the line separating Range 1 West and Range 2 West at a point approximately 1/4 mile south of the northwest corner of Section 31, T36S, R1W; thence west approximately 1/2 mile; thence south to the north bank of Bear Creek; thence west to the south bank of Bear Creek; thence south to the intersection with the Medford Corporate Boundary; thence following the Medford Corporate Boundary west and southwesterly to the intersection with Merriman Road; thence northwesterly along Merriman Road to the intersection with the eastern boundary of Section 10, T36S, R2W; thence south along said boundary line approximately 3/4 mile; thence west approximately 1/3 mile; thence south to the intersection with the Hopkins Canal; thence east along the Hopkins Canal approximately 200 feet; thence south to Rossanely Drive; thence east along Rossanley Drive approximately 200 feet; thence south approximately 1200 feet; thence west approximately 700 feet; thence south approximately 1400 feet; thence east approximately 1400 feet; thence north approximately 100 feet; thence east approximately 700 feet; thence south to Finley Lane; thence west to the end of Finley Lane; thence approximately 1200 feet; thence west approximately 1300 feet; thence north approximately 150 feet; thence west approximately 500 feet; thence south to Highway 238; thence west along Highway 238 approximately 250 feet; thence south approximately 1250 feet to a point even with the end of Renault Avenue to the east; thence east approximately 2200 feet; thence south approximately 1100 feet to a point even with Sunset Court to the east; thence east to and along Sunset Court to the first (nameless) road to the south; thence approximately 850 feet; thence west approximately 600 feet; thence south to Stewart Avenue; thence west along Stewart Avenue approximately 750 feet; thence south approximately 1100 feet; thence west approximately 100 feet; thence south approximately 800 feet; thence east approximately 800 feet; thence south approximately 1000 feet; thence west approximately 350 feet to a point even with the north-south connector street between Sunset Drive and South Stage Road; thence south to and along said connecting road and continuing along South Stage Road to Fairlane Road; thence south to the end of Fairlane Road and extending beyond it approximately 250 feet; thence east approximately 250 feet; thence south approximately 250 feet to the intersection with Judy Way; thence east on Judy Way to Griffin Creek

Road; thence north on Griffin Creek Road to South Stage Road; thence east on South Stage Road to Orchard Home Drive; thence north on Orchard Home Drive approximately 800 feet; thence east to Columbus Avenue; thence south along Columbus Avenue to South Stage Road; thence east along South Stage Road to the first road to the north after Sunnyview Lane; thence north approximately 300 feet; thence east approximately 300 feet; thence north approximately 700 feet; thence east to King's Highway; thence north along King's Highway to Experiment Station Road; thence east along Experiment Station Road to Marsh Lane; thence east along Marsh Lane to the northern boundary of Section 6, T38S, R1W; thence east along said boundary approximately 1100 feet; thence north approxi-mately 1200 feet; thence east approximately 1/3 mile; thence north approximately 400 feet; thence east approximately 1000 feet to a drainage ditch; thence following the drainage ditch southeasterly approximately 500 feet; thence east to the eastern boundary of Section 31, T37S, R1W; thence south along said boundary approximately 1900 feet; thence east to and along the loop off of Rogue Valley Boulevard, following that loop to the Southern Pacific Railroad Line (SPRR); thence following SPRR approximately 500 feet; thence south to South Stage Road; thence east along South Stage Road to SPRR; thence southeasterly along SPRR to the intersection with the west fork of Bear Creek; thence northeasterly along the west fork of Bear Creek to the intersection with U.S. Highway 99; thence southeasterly along U.S. Highway 99 approximately 250 feet; thence east approximately 1600 feet; thence south to East Glenwood Road; thence east along East Glenwood Road approximately 1250 feet; thence north approxi-mately 1/2 mile; thence west approximately 250 feet; thence north approximately 1/2 mile to the Medford City Limits; thence east along the city limits to Phoenix Road; thence south along Phoenix Road to Coal Mine Road; thence east along Coal Mine Road approximately 9/10 mile to the western boundary of Section 35, T37S, R1W; thence north to the midpoint of the western boundary of Section 35, T37S, R1W; thence west approximately 800 feet; thence north approximately 1700 feet to the intersection with Barnett Road; thence easterly along Barnett Road to the southeast corner of Section 27, T37S, R1W; thence north along the eastern boundary line of said section approximately 1/2 mile to the intersection with the 1800 foot contour line; thence east to the intersection with Cherry Lane; thence following Cherry Lane southeasterly and then northerly to the intersection with Hillcrest Road; thence east along Hillcrest Road to the southeast corner of Section 23, T37S, R1W; thence north to the northeast corner of Section 23, T37S, R1W; thence west to the midpoint of the northern boundary of Section 22; T37S, R1W; thence north to the midpoint of Section 15, T37S, R1W; thence west to the midpoint of the western boundary of Section 15, T37S, R1W; thence south along said boundary approximately 600 feet; thence west approximately 1200 feet; thence north approximately 600 feet; thence west to Foothill Road; thence north along Foothill Road to a point approximately 500 feet north of Butte Road; thence west approximately 300 feet; thence south approximately 250 feet; thence west on a line parallel to and approximately 250 feet north of Butte Road to the eastern boundary of Section 8, T37S, R1W; thence north approximately 2200 feet; thence west approximately 1800 feet; thence north approximately 2000 feet; thence west approxi-mately 500 feet; thence north to Coker Butte Road; thence east along Coker Butte Road approximately 550 feet; thence north approximately 1250 feet; thence west to U.S. Highway 62; thence north approximately 3000 feet; thence east approximately 400 feet to the 1340 foot contour line; thence north approximately 800 feet; thence west approximately 200 feet; thence north approximately 250 feet to East Vilas Road; thence east along East Vilas Road approximately 450 feet; thence north approximately 2000 feet to a point approximately 150 feet north of Swanson Creek; thence east approximately 600 feet; thence north approximately 850 feet; thence west approximately 750 feet; thence north approximately 650 feet; thence west approximately 2100 feet; thence on a line southeast approximately 600 feet; thence east approximately 450 feet; thence south approxi-mately 1600 feet; thence west approximately 2000 feet to the continuance of the private logging road north of East Vilas Road; thence south along said logging road approximately 850 feet; thence west approximately 750 feet; thence south approximately 150 feet; thence west approximately 550 feet to Peace Lane; thence north along Peace Lane approximately 100 feet; thence west approximately 350 feet; thence north approximately 950 feet; thence west approximately 1000 feet to the western boundary of Section 31, T36S, R1W; thence north approximately 1300 feet along said boundary to the point of beginning.

~~(17)~~(16) "Nonattainment Area" means any area that has been designated as not meeting the standards established by the U.S. Environmental Protection Agency (EPA) pursuant to **40 CFR 51.52** (July, 1993) for any criteria pollutant.

~~(18)~~(17) "O_3" means Ozone.

~~(19)~~(18) "Oakridge UGB" means the area enclosed by the following: Beginning at the northwest corner of Section 17, T21S, R3E and the city limits; thence south along the western boundary of Section 17, T21S, R3E along the city limits approximately 800 feet; thence southwesterly following the city limits approximately 750 feet; thence west along the city limits approximately 450 feet; thence northwesterly along the city limits approximately 450 feet; thence on a line south along the city limits approximately 250 feet; thence on a line east along the city limits approximately 100 feet; thence southwesterly along the city limits approximately 200 feet; thence on a line east along the city limits approximately 400 feet; thence on a line south along the city limits to the channel of the Willamette River Middle Fork; thence south-easterly up the Willamette River Middle Fork along the city limits approximately 7200 feet; thence exiting the Willamette River Middle Fork with the city limits in a northerly manner and forming a rough semicircle with a diameter of approximately one-half mile before rejoining the Willamette River Middle Fork; thence diverging from the city limits upon rejoining the Willamette River Middle Fork and moving southeasterly approximately 5600 feet up the Willamette River Middle Fork to a point on the river even with the point where Salmon Creek Road intersects with U.S. Highway 58; thence on a line east from the channel of the Willamette River Middle Fork across the intersection of Salmon Creek Road and U.S. Highway 58 to the intersection with the Southern Pacific Railroad Line; thence northerly along the Southern Pacific Railroad Line to the intersection with the northern boundary of Section 22, T21S, R3E; thence west along the northern boundary of Section 22, T21S, R3E to the intersection with Salmon Creek Road; thence on a line north to the intersection with the Southern Pacific Railroad Line; thence east along the Southern Pacific Railroad Line approximately 600 feet; thence on a line north to the intersection with High Prairie Road; thence on a line west approximately 400 feet; thence on a line north to the intersection with the northern boundary of Section 15, T21S, R3E; thence west along the northern boundary of Section 15, T21S, R3E to the intersection with the southeastern corner of Section 9, T21S, R3E; thence north along the eastern boundary of Section 9, T21S, R3E approximately 1300 feet; thence on a line west approximately 1100 feet; thence on a line south to the intersection with West Oak Road; thence northwesterly along West Oak Road approximately 2000 feet; thence on a line south to the intersection with the northern boundary line of the city limits; thence westerly and northwesterly approximately 8000 feet along the city limits to the point of beginning.

~~(20)~~(19) "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 with the Department's Source Sampling Manual, (January, 1992).

~~(21)~~(20) PM_{10}:

(a) When used in the context of emissions, means finely divided solid or liquid material, including condensible water, other than combined water, with an aerodynamic diameter less than or equal to a nominal 10 microns, emitted to the ambient air as measured by as 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 microns as measured in accordance with 40 CFR Part 50, Appendix J (July, 1993).

~~(22) "Portland Metropolitan Area Nonattainment Area for Total Suspended Particulate" are the areas not in attainment for the **Secondary 24 Hour TSP Standard** or not in attainment for the **Secondary Annual TSP Standard**.~~

~~(a) The nonattainment area within the Oregon portion of the Portland Vancouver AQMA for the **Secondary 24 Hour TSP Standard** is legally defined as the areas within the bounds of the Universal Transverse Mercator (UTM) mapping and coordinate system, Zone 10 as follows:~~

~~(A) The square area bounded as follows: beginning at the point of intersection of the UTM easting coordinate 515,000 meters and the UTM northing coordinates 5,038,000 meters, extending thence east along the last referenced coordinate to the intersection with the UTM easting coordinate 517,000 meters, thence south along the last coordinate referenced to the intersection with the UTM northing coordinate 5,036,000 meters, thence west along the last referenced coordinate to the intersection with the UTM easting coordinate 515,000 meters, thence north along the last referenced coordinate to the point of beginning.~~

(B) The rectangular area bounded as follows: beginning at the point of intersection of the UTM easting coordinate 515,000 meters and the UTM northing coordinate 5,050,000 meters, extending thence east along the last referenced coordinate to the intersection with the UTM easting coordinate 519,000 meters, thence south along the last coordinate referenced to the intersection of UTM northing coordinate 5,048,000 meters, thence west along the last referenced coordinate to the intersection with the UTM easting coordinate 515,000 meters, thence north along the last referenced coordinate to the point of beginning.

(C) The square area bounded as follows: beginning at the point of intersection of UTM easting coordinate 521,000 meters and the UTM northing coordinate 5,044,000 meters, extending thence east along the last referenced coordinate to the intersection with UTM easting coordinate 523,000 meters, thence south along the last referenced coordinate to the intersection with UTM northing coordinate 5,042,000 meters, thence west along the last referenced coordinate to the intersection with the UTM easting coordinate 521,000 meters, thence north along the last referenced coordinate to the point of beginning.

(D) The area is bounded as follows: beginning at the point of intersection of the UTM easting coordinate 525,000 meters and the UTM northing coordinate 5,042,000 meters, extending thence east along the last referenced coordinate to the intersection with the UTM easting coordinate 531,000 meters, thence south along the last referenced coordinate to the intersection with the UTM northing coordinate 5,040,000 meters, thence west along the last referenced coordinate to the intersection with the UTM easting coordinate 527,000 meters, thence south along the last referenced coordinate to the intersection with the UTM northing coordinate 5,038,000 meters, thence east along the last referenced coordinate to the intersection with the UTM easting coordinate 529,000 meters, then south along the last referenced coordinate to the intersection with the UTM northing coordinate 5,036,000 meters, thence east along the last referenced coordinate to the intersection with the UTM easting coordinate 533,000 meters, thence north along the last referenced coordinate to the intersection with UTM northing coordinate 5,038,000 meters, thence east along the last referenced coordinate to the intersection with the UTM easting coordinate 535,000 meters, thence south along the last referenced coordinate to the intersection with the UTM northing coordinate 5,036,000 meters, thence west along the last referenced coordinate to the intersection with the UTM easting coordinate 533,000 meters, thence south along the last referenced coordinate to the intersection with the UTM northing coordinate 5,030,000 meters, thence east along the last referenced coordinate to the intersection with the UTM easting coordinate 535,000 meters, thence south along the last referenced coordinate to the intersection with the UTM northing coordinate 5,028,000 meters, thence west along the last referenced coordinate to the intersection with UTM easting coordinate 533,000 meters, thence south along the last referenced coordinate to the intersection with UTM northing coordinate 5,022,000 meters, thence west along the last referenced coordinate to the intersection with UTM easting coordinate 531,000 meters, thence north along the last referenced coordinate to the intersection with UTM northing coordinate 5,026,000 meters, thence west along the last referenced coordinate to the intersection with UTM easting coordinate 529,000 meters, thence north along the last referenced coordinate to the intersection with UTM northing coordinate 5,028,000 meters, thence west along the last referenced coordinate to the intersection with UTM easting coordinate 525,000 meters, thence north along the last referenced coordinate to the intersection with UTM northing coordinate 5,030,000 meters, thence east along the last referenced coordinate to the intersection with UTM easting coordinate 527,000, thence north along the last referenced coordinate to the intersection with the UTM northing coordinate 5,034,000 meters, thence west along the last referenced coordinate to the intersection with the UTM easting coordinate 525,000 meters, thence north along the last referenced coordinate to the point of beginning.

~~(b) The nonattainment area within the Oregon portion of the Portland-Vancouver AQMA for the **Secondary Annual TSP Standard** is legally defined as the areas within the bounds of the Universal Transverse Mercator (UTM) mapping and coordinate system, Zone 10 as follows:~~

~~(A) The square area bounded as follows: beginning at the point of intersection of the UTM easting coordinate 515,000 meters, and the UTM northing coordinate 5,052,000 meters, extending thence east along the last referenced coordinate to the intersection with the UTM easting coordinate 517,000 meters, thence south along the last referenced coordinate to the intersection with the UTM northing coordinate 5,050,000 meters, thence west along the last referenced coordinate to the intersection with the UTM easting coordinate 515,000 meters, thence north along the last referenced coordinate to the point of the beginning.~~

~~(B) The square area bounded as follows: beginning at the point of intersection of the UTM easting coordinate 517,000 meters and the UTM northing coordinate 5,050,000 meters, extending thence east along the last referenced coordinate to the intersection with the UTM easting coordinate 519,000 meters, thence south along the last referenced coordinate to the intersection with the UTM northing coordinate 5,048,000 meters, thence west along the last referenced coordinate to the intersection with the UTM easting coordinate 517,000 meters, thence north along the last referenced coordinate to the point of beginning.~~

~~(C) The square area bounded as follows: beginning at the point of intersection of the easting coordinate 523,000 meters and the UTM northing coordinate 5,050,000 meters, extending thence east along the last referenced coordinate to the intersection with the UTM easting coordinate 525,000 meters, thence south along the last referenced coordinate to the intersection with the UTM northing coordinate 5,048,000 meters, thence west along the last referenced coordinate to the intersection with the UTM easting coordinate 523,000 meters, thence north along the last referenced coordinate to the point of beginning.~~

~~(D) The rectangular area bounded as follows: beginning at the point of intersection of the UTM easting coordinate 521,000 meters and the UTM northing coordinate 5,046,000 meters, extending then east along the last referenced coordinate to the intersection with the UTM easting coordinate 523,000 meters, thence south along the last referenced coordinate to the intersection with the UTM northing coordinate 5,042,000 meters, thence west along the last referenced coordinate to the intersection with the UTM easting coordinate 521,000 meters, thence north along the last referenced coordinate to the point of beginning.~~

~~(E) The area bounded as follows: beginning at the point of intersection of the UTM easting coordinate 525,000 meters and the UTM northing coordinate 5,044,000 meters, extending thence east along the last referenced coordinate to the intersection with the UTM easting coordinate 527,000, thence south along the last referenced coordinate to the intersection with the UTM northing coordinate 5,042,000 meters, thence east along the last referenced coordinate to the intersection with the UTM easting coordinate 531,000 meters, thence south along the last referenced coordinate to the intersection with the UTM northing coordinate 5,040,000 meters, thence west along the last referenced coordinate to the intersection with the UTM easting coordinate 527,000 meters, thence south along the last referenced coordinate to the intersection with the UTM northing coordinate 5,038,000 meters, thence east along the last referenced coordinate to the intersection with the UTM easting coordinate 529,000 meters, thence south along the last referenced coordinate to the intersection with the UTM northing coordinate 5,036,000 meters, thence west along the last referenced coordinate to the intersection with the UTM easting coordinate 525,000 meters, thence north along the last referenced coordinate to the point of beginning.~~

~~(F) The square area bounded as follows: beginning at the point of intersection of the UTM easting coordinate 535,000 meters and the UTM northing coordinate 5,042,000 meters, extending thence east along the last referenced coordinate to the intersection with the UTM~~

~~easting coordinate 537,000 meters, thence south along the last referenced coordinate to the intersection with the UTM northing coordinate 5,040,000 meters, thence west along the last referenced coordinate to the intersection with the UTM easting coordinate 535,000 meters, thence north along the last referenced coordinate to the point of beginning.~~

~~(G) The square area bounded as follows: beginning at the point of intersection of the UTM easting coordinate 531,000 meters and the UTM northing coordinate 5,036,000 meters, extending thence east along the last referenced coordinate to the intersection with the UTM easting coordinate 533,000 meters, thence south along the last referenced coordinate to the intersection with the UTM northing coordinate 5,034,000 meters, thence west along the last referenced coordinate to the intersection with the UTM easting coordinate 531,000 meters, thence north along the last referenced coordinate to the point of beginning.~~

~~(H) The square area bounded as follows: beginning at the point of intersection of the UTM easting coordinate 529,000 meters and the UTM northing coordinate 5,034,000 meters, extending thence east along the last referenced coordinate to the intersection with the UTM easting coordinate 531,000 meters, thence south along the last referenced coordinate to the intersection with the UTM northing coordinate 5,032,000 meters, thence west along the last referenced coordinate to the intersection with the UTM easting coordinate 529,000 meters, thence north along the last referenced coordinate to the point of beginning.~~

~~(23)~~(21) "Portland AQMA" means the area within the bounds beginning at the point starting on the Oregon-Washington state line in the Columbia River at the confluence with the Willamette River, thence east up the Columbia River to the confluence with the Sandy River, thence southerly and easterly up the Sandy River to the point where the Sandy River intersects the Clackamas County-Multnomah County line, thence west along the Clackamas County-Multnomah County line to the point where the Clackamas County-Multnomah County line is intersected by H. Johnson Road (242nd), thence south along H. Johnson Road to the intersection with Kelso Road (Boring Highway), thence west along Kelso Road to the intersection with Deep Creek Road (232nd), thence south along Deep Creek Road to the point of intersection with Deep Creek, thence southeasterly along Deep Creek to the confluence with Clackamas River, thence easterly along the Clackamas River to the confluence with Clear Creek, thence southerly along Clear Creek to the point where Clear Creek intersects Springwater Road then to Forsythe Road, thence easterly along Forsythe Road to the intersection with Bradley Road, thence south along Bradley Road to the intersection with Redland Road, thence west along Redland Road to the intersection with Ferguson Road, thence south along Ferguson Road to the intersection with Thayler Road, thence west along Thayler Road to the intersection with Beaver Creek Road, thence southeast along Beaver Creek Road to the intersection with Henrici Road, thence west along Henrici Road to the intersection with State Highway 213 (Mollala Avenue), thence southeast along State Highway 213 to the point of intersection with Beaver Creek, thence westerly down Beaver Creek to the confluence with the Willamette River, thence southerly and westerly up the Willamette River to the point where the Willamette River intersects the Clackamas County-Yamhill County line, thence north along the Clackamas County-Yamhill County line to the point where it intersects the Washington County-Yamhill County line, thence west and north along the Washington County-Yamhill County line to the point where it is intersected by Mount Richmond Road, thence northeast along Mount Richmond Road to the intersection with Patton Valley Road, thence easterly and northerly along Patton Valley Road to the intersection with Tualatin Valley State Highway, thence northerly along Tualatin Valley State Highway to the intersection with State Highway 47, thence northerly along State Highway 47 to the intersection with Dilley Road, thence northwesterly and northerly along Dilley Road to the intersection with Stringtown Road, thence westerly and northwesterly along Stringtown Road to the intersection with Gales Creek Road, thence northwesterly along Gales Creek Road to the intersection with Tinmmerman Road, thence northerly along Tinmmerman Road to the intersection with Wilson River Highway, thence west and southwesterly along Wilson River Highway to the intersection with Narup Road, thence north along Narup Road to the intersection with Cedar Canyon Road, thence westerly and northerly along Cedar Canyon Road to the intersection with Banks Road, thence west along Banks Road to the intersection with Hahn Road, thence northerly and westerly along Hahn Road to the intersection with Mountaindale Road, thence southeasterly along Mountaindale Road to the intersection

with Glencoe Road, thence east-southeasterly along Glencoe Road to the intersection with Jackson Quarry Road, thence north-northeasterly along Jackson Quarry Road to the intersection with Helvetia Road, thence easterly and southerly along Helvetia Road to the intersection with Bishop Road, thence southerly along Bishop Road to the intersection with Phillips Road, thence easterly along Phillips Road to the intersection with the Burlington Northern Railroad Track, thence northeasterly along the Burlington Northern Railroad Line to the intersection with Rock Creek Road, thence east-southeasterly along Rock Creek Road to the intersection with Old Cornelius Pass Road, thence northeasterly along Old Cornelius Pass Road to the intersection with Skyline Boulevard, thence easterly and southerly along Skyline Boulevard to the intersection with Newberry Road, thence northeasterly along Newberry Road to the intersection with State Highway 30 (St. Helens Road), thence northeast on a line over land across State Highway 30 to the Multnomah Channel, thence east-southeasterly up the Multnomah Channel to the diffluence with the Willamette River, thence north-northeasterly down the Willamette River to the confluence with the Columbia River and the Oregon-Washington state line (the point of beginning).

~~(24)~~(22) "Portland Metropolitan Service District Boundary" or "Portland METRO" means the boundary surrounding the urban growth boundaries of the cities within the Greater Portland Metropolitan Area. It is defined in the **Oregon Revised Statutes (ORS) 268.125** (1989).

~~(25)~~(23) "Salem-Kaiser Area Transportation Study" or "SKATS" means the area within the bounds beginning at the intersection of U.S. Interstate Highway 5 (I-5) with Battle Creek Road SE and Wiltsey Road, south along I-5 to the intersection with the western boundary of Section 24, T8S, R3W; thence due south on a line to the intersection with Delaney Road; thence easterly along Delaney Road to the intersection with Sunnyside Road; thence north along Sunnyside Road to the intersection with Hylo Road SE; thence west along Hylo Road SE to the intersection with Liberty Road; thence north along Liberty Road to the intersection with Cole Road; thence west along Cole Road to the intersection with Bates Road; thence northerly and easterly along Bates Road to the intersection with Jory Hill Road; thence west along Jory Hill Road to the intersection with Stone Hill Avenue; thence north along Stone Hill Avenue to the intersection with Vita Springs Road; thence westerly along Vita Springs Road to the Willamette River; thence northeasterly downstream the Willamette River to a pointadjacent to where the western boundary of Section 30, T7S, R3W intersects the Southern Pacific Railroad Line; thence westerly along the Southern Pacific Railroad Line to the intersection with State Highway 51; thence northeasterly along State Highway 51 to the intersection with Oak Grove Road; thence northerly along Oak Grove Road to the intersection with State Highway 22; thence west on State Highway 22 to the intersection with Oak Grove Road; thence north along Oak Grove Road to the intersection with Orchard Heights Road; thence east and north along Orchard Heights Road to the intersection with Eagle Crest Drive; thence northerly along Eagle Crest Drive to the intersection with Hunt Road; thence north along Hunt Road to the intersection with Fourth Road; thence east along Fourth Road to the intersection with Spring Valley Road; thence north along Spring Valley to the intersection with Oak Knoll Road; thence east along Oak Knoll Road to the intersection with Wallace Road; thence south along Wallace Road to the intersection with Lincoln Road; thence east along Lincoln Road on a line to the intersection with the Willamette River; thence northeasterly downstream the Willamette River to a point adjacent to where Simon Street starts on the East Bank; thence east and south along Simon Street to the intersection with Salmon; thence east along Salmon to the intersection with Ravena Drive; thence southerly and easterly along Ravena Drive to the intersection with Wheatland Road; thence northerly along Wheatland Road to the intersection with Brooklake Road; thence southeast along Brooklake Road to the intersection with 65th Avenue; thence south along 65th Avenue to the intersection with Labish Road; thence east along Labish Road to the intersection with the West Branch of the Little Pudding River; thence southerly along the West Branch of the Little Pudding River to the intersection with Sunnyview Road; thence east along Sunnyview Road to the intersection with 63rd Avenue; thence south along 63rd Avenue to the intersection with State Street; thence east

along State Street to the intersection with 62nd Avenue; thence south along 62nd Avenue to the intersection with Deer Park Drive; thence southwest along Deer Park Drive to the intersection with Santiam Highway 22; thence southeast along Santiam Highway 22 to the point where it intersects the Salem Urban Growth Boundary (SUGB); thence following the southeast boundary of the SUGB generally southerly and westerly to the intersection with Wiltsey Road; thence west along Wiltsey Road to the intersection with I-5 (the point of beginning).

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047.]

Stat. Auth.: ORS 468.020

Stat. Implemented: ORS 468A.025

Hist.: DEQ 14-1995, f. & cert. ef. 5-25-95; DEQ 18-1996, f. & cert. ef. 8-19-96

340-031-0520

Nonattainment Areas

The following areas are designated as Nonattainment Areas:

(1) Carbon Monoxide Nonattainment Areas:

(a) The Grants Pass Nonattainment Area for Carbon Monoxide is the Grants Pass CBD as defined in OAR 340-031-0500.

(b) The Klamath Falls Nonattainment Area for Carbon Monoxide is the Klamath Falls UGB as defined in OAR 340-031-0500.

(c) The Salem Nonattainment Area for Carbon Monoxide is the Salem-Kaiser Area Transportation Study as defined in OAR 340-031-0500.

~~(2) Ozone Nonattainment Areas: The Salem Nonattainment Area for Ozone is the Salem Area Transportation Study as defined in OAR 340-031-0500.~~

~~(3)~~ (2) PM_{10} Nonattainment Areas:

Revocation of the nonattainment designation for the following areas will be effective upon final notice in the Federal Register:

(a) The Eugene Nonattainment Area for PM_{10} ~~is the Eugene UGA~~ as defined in OAR 340-031-0500.

(b) The Grants Pass Nonattainment Area for PM_{10} ~~is the Grants Pass UGB~~ as defined in OAR 340-031-0500.

(c) The Klamath Falls Nonattainment Area for PM_{10} ~~is the Klamath Falls UGB~~ as defined in OAR 340-031-0500.

(d) The LaGrande Nonattainment Area for PM_{10} ~~is the LaGrande UGB~~ as defined in OAR 340-031-0500.

(e) The Lakeview Nonattainment Area for PM_{10} ~~is the Lakeview UGB~~ as defined in OAR 340-031-0500.

(f) The Medford Nonattainment Area for PM_{10} ~~is the Medford Ashland AQMA~~ as defined in OAR 340-031-0500.

(g) The Oakridge Nonattainment Area for PM_{10} ~~is the Oakridge UGB~~ as defined in OAR 340-031-0500.

~~(4) Total Suspended Particulate (TSP) Nonattainment Areas:~~

~~(a) The Eugene Nonattainment Area for TSP is the Eugene Springfield AQMA as defined in OAR 340-031-0500.~~

~~(b) The Medford Nonattainment Area for TSP is the Medford Ashland AQMA as defined in OAR 340-031-0500.~~

~~(c) The Portland Nonattainment Area for TSP includes areas within the Portland AQMA as set out and defined in OAR 340-031-0500.~~

~~NOTE: Total Suspended Particulate is now a state enforceable standard only. The US EPA now enforces PM10 in the place of TSP. The Department has decided to retain TSP as an enforceable standard.~~

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047.]

Stat. Auth.: ORS 468.020

Stat. Implemented: ORS 468A.025

Hist.: DEQ 14-1995, f. & cert. ef. 5-25-95; DEQ 18-1996, f. & cert. ef. 8-19-96

340-031-0530

Maintenance Areas

The following areas are designated as Maintenance Areas:

(1) Carbon Monoxide Maintenance Areas:

(a) The Eugene Maintenance Area for Carbon Monoxide is the Eugene-Springfield AQMA as defined in OAR 340-031-0500.

(b) The Portland Maintenance Area for Carbon Monoxide is the Portland Metropolitan Service District as referenced in OAR 340-031-0500.

(c) The Medford Maintenance Area for Carbon Monoxide is the Medford UGB as defined in OAR 340-031-0500.

(2) Ozone Maintenance Areas:

(a) The Medford Maintenance Area for Ozone is the Medford-Ashland AQMA as defined in OAR 340-031-0500.

(b) The Oregon portion of the Portland - Vancouver Interstate Maintenance Area for Ozone is the Portland AQMA, as defined in OAR 340-031-0500.

(3) PM_{10} Maintenance Areas: There are no areas in the state that have been designated by the EQC as PM_{10} Maintenance Areas.

~~(4) Total Suspended Particulates (TSP) Maintenance Areas:~~

~~There are no areas in the state that have been designated by the EQC as TSP Maintenance Areas.~~

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047.]

Stat. Auth.: ORS 468.020

Stat. Implemented: ORS 468A.025

Hist.: DEQ 14-1995, f. & cert. ef. 5-25-95; DEQ 18-1996, f. & cert. ef. 8-19-96

DIVISION 21

GENERAL EMISSION STANDARDS FOR PARTICULATE MATTER

~~Industrial Contingency Requirements for Selected PM_{10} Nonattainment Areas~~

~~340-021-0200~~
~~Purpose~~

~~OAR 340-021-0200 through 340-021-0245 establish contingency control requirements for existing industrial sources in the following PM_{10} nonattainment areas: Medford-Ashland; Grants Pass; Klamath Falls; La Grande. These requirements become effective in the PM_{10} nonattainment area if the area fails to attain the national ambient air quality standard for PM_{10} by the applicable attainment date in the Clean Air Act.~~

~~Stat. Auth.: ORS Ch. 468 & 468A~~
~~Stats. Implemented:ORS 468A.035~~
~~Hist.: DEQ 20-1991, f. & cert. ef. 11-13-91; DEQ4-1993, f. & cert. ef. 3-10-93; DEQ 10-1995, f. & cert. ef. 5-1-95~~

~~340-021-0205~~
~~Relation to Other Rules~~

~~OAR340-021-0200 through 340-021-0245 shall apply in addition to all other rules of the Environmental Quality Commission. The adoption of these rules shall not, in any way, affect the applicability of all other rules of the Environmental Quality Commission and the latter shall remain in full force and effect, except as expressly provided otherwise. In cases of apparent conflict, the most stringent rule shall apply.~~

~~Stat. Auth.: ORS Ch. 468 & 468A~~
~~Stats. Implemented:ORS 468A.035~~
~~Hist.: DEQ 20-1991, f. & cert. ef. 11-13-91; DEQ4-1993, f. & cert. ef. 3-10-93~~

~~340-021-0210~~
~~Applicability~~

~~(1) OAR 340-021-0200 through 340-021-0245 shall apply in a PM_{10} nonattainment area upon publication by EPAof notice in the Federal Register that the area has failed to attain the national ambient air quality standard for PM_{10} by the attainment date required in the Clean Air Act.~~

~~(2)(a) OAR 340-021-0200 through 340-021-0245 shall apply to a major source located outside of a PM_{10} nonattainment area upon a determination by the Department based upon a study conducted under subsection (b) of this section that the source has a significant impact on a PM_{10} nonattainment area affected under section (1)of this rule;~~

~~(b) Upon request of the Department, the owner or operator of any source with the potential to have a significant impact on a PM_{10} nonattainment area shall conduct, prior to the attainment date required in the Clean Air Act and in accordance with a study protocol approved by the Department, a receptor and dispersion modeling study of the impact of emissions from the source on the PM_{10} nonattain-ment area.~~

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Stats. Implemented:ORS 468A.035~~

~~Hist.: DEQ 20-1991, f. & cert. ef. 11-13-91; DEQ4-1993, f. & cert. ef. 3-10-93~~

~~340-021-0215~~

~~Definitions~~

~~As used in OAR 340-021-0200 through 340-021-0245:~~

~~(1) "Air Conveying System" means an air moving device, such as a fan or blower, associated ductwork, and a cyclone or other collection device, the purpose of which is to move material from one point to another by entrainment in a moving air stream.~~

~~(2) "Charcoal Producing Plant" means an industrial operation which uses the destructive distillation of wood to obtain the fixed carbon in the wood.~~

~~(3) "Collection Efficiency" means the overall performance of the air cleaning device in terms of ratio of weight of material collected to total weight of input to the collector.~~

~~(4) "Contingency Requirements" means the requirements of OAR 340-021-0200 through 340-021-0245.~~

~~(5) "Design Criteria" means the numerical as well as narrative description of the basis of design including, but not necessarily limited to, design flow rates, temperatures, humidities, descriptions of the types and chemical species of contaminants, uncontrolled and expected controlled mass emission rates and concentrations, scopes of any vendor-supplied and owner-supplied equipment and utilities, and a description of any operational controls.~~

~~(6) "EPA" means the United States Environmental Protection Agency.~~

~~(7) "Fugitive Emissions" means dust, fumes, gases, mist, odorous matter, vapors, or any combination thereof not easily given to measurement, collection and treatment by conventional pollution control methods.~~

~~(8) "General Arrangement" means drawings or reproductions which show, as a minimum, the size and location of the control equipment on a source plot plan, the location of equipment served by the emission control system, the location and elevation above grade of the ultimate point of contaminant emission to the atmosphere, and the diameter of the emission vent.~~

~~(9) "Hardboard" means a flat panel made from wood that has been reduced to basic wood fibers and bonded by adhesive properties under pressure.~~

~~(10)"Large Sawmill" means a sawmill and/or planning mill which produces 25,000 or more board feet/shift of finished product.~~

~~(11) "Major Source" means a stationary source which emits, or has the potential to emit, any pollutant regulated under the Clean Air Act at a Significant Emission Rate (OAR 340-020-0225(25)).~~

(12) "Opacity" means the degree to which an emission reduces transmission of light and obscures the view of an object in the background as measured in accordance with the Department's **Source Sampling Manual.**

(13) "Particleboard" means matformed flat panels consisting of wood particles bonded together with synthetic resin or other suitable binder.

(14)"Particulate Matter" means all solid or liquid material, other than uncombined water, emitted to the ambient air as measured in accordance with the Department **Source Sampling Manual.** Particulate matter emission determinations shall consist of the average of three separate consecutive runs. For sources tested using DEQMethod 5 or 7, each run shall have a minimum sampling time of one hour, a maximum sampling time of eight hours, and a minimum sampling volume of 31.8 dscf. For sources tested using DEQMethod 8, each run shall have a minimum sampling time of 15 minutes and shall collect a minimum particulate sample of 100 mg. Wood waste boilers shall be tested with DEQMethod 5; wood particle dryers, fiber dryers and press/cooling vents shall be tested with *DEQMethod 7; and air conveying systems shall be tested with DEQMethod 8.*

(15) "Plywood" means a flat panel built generally of an odd number of thin sheets of veneers of wood in which the grain direction of each ply or layer is at right angles to the one adjacent to it.

(16)"Press/Cooling Vents" means any openings, generally located immediately above the board press or board cooling area, through which particulate and gaseous emissions from panelboard manufacturing (including, but not limited to, particleboard and hardboard) are exhausted, either by natural draft or by powered fan, from the building housing the process.

(17)"Significant Impact" means an annual average impact of 1.0 $\mu g/m^3$ or 24 hour average impact of 5.0 $\mu g/m^3$ of PM_{10} from a source at the point of maximum concentration within a PM_{10} nonattainment area as computed by a receptor and dispersion model approved by the Department.

(18) "Veneer" means a single flat panel of wood not exceeding 1/4 inch in thickness formed by slicing or peeling from a log.

[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. 468 & 468A

Stats. Implemented:ORS 468A.025

Hist.: DEQ 20-1991, f. & cert. ef. 11-13-91; DEQ4-1993, f. & cert. ef. 3-10-93

340-021-0220

Compliance Schedule for Existing Sources

(1) Except as provided in sections (2) and (3)of this rule, compliance with applicable contingency requirements for a source that is located in an area prior to the date the contingency requirements first apply under OAR 340-021-0210 shall be demonstrated as expeditiously as possible, but in no case later than the following schedule:

(a) No later than three months after the date the contingency requirements first apply under OAR 340-021-0210, the owner or operator shall submit Design Criteria and a Notice of Intent to Construct for emission control systems for Department review and approval; and if the Department disapproves the Design Criteria, the owner or operator

shall revise the Design Criteria to meet the Department's objections and submit the revised Design Criteria to the Department no later than one month after receiving the Department's disapproval;

(b) No later than three months after receiving the Department's approval of the Design Criteria, the owner or operator shall submit to the Department a General Arrangement and copies of purchase orders for any emission control devices;

(c) No later than eight months after receiving the Department's approval of the Design Criteria, the owner or operator shall submit to the Department vendor drawings as approved for construction of any emission control devices and specifications of any other major equipment in the emission control system in sufficient detail to demonstrate that the requirements of the Design Criteria will be satisfied;

(d) No later than nine months after receiving the Department's approval of the Design Criteria, the owner or operator shall begin construction of any emission control devices;

(e)No later than 16 months after receiving the Department's approval of Design Criteria, the owner or operator shall complete construction in accordance with the Design Criteria;

(f) No later than 30 months from the date the contingency requirements first apply under OAR 340-021-0210 the owner or operator shall demonstrate compliance with the applicable contingency requirements.

(2) Section (1) of this rule shall not apply if the owner or operator has demonstrated within six months after the date the contingency requirements first apply under OAR 340-021-0210 that the source is capable of being operated and is operated in continuous compliance with applicable contingency requirements and the Department has agreed with the demonstration in writing. The Department may grant an extension of up to 12 months after the date the contingency requirements first apply under OAR 340-021-0210 for a source to demonstrate compliance under this section. The applicable contingency requirements shall be incorporated in the Air Contaminant Discharge Permit issued to the source.

(3) The Department may adjust the schedule specified in subsections (1)(a) through (e) of this rule if necessary to ensure timely compliance with subsection (1)(f) of this rule.

Stat. Auth.: ORS Ch. 468 & 468A

Stats. Implemented:ORS 468A.025

Hist.: DEQ 20-1991, f. & cert. ef. 11-13-91; DEQ4-1993, f. & cert. ef. 3-10-93

340-021-0225

Wood-Waste Boilers

No person shall cause or permit the emission into the atmosphere from any wood-waste boiler that is located on a plant site where the total heat input capacity from all wood-waste boilers is greater than 35 million Btu/hr:

(1) Any air contaminant for a period or periods aggregating more than three minutes in any one hour which is equal to or greater than ten percent opacity, unless the permittee demonstrates by source test that the source can comply with the emission limit in section (2)of this rule at higher opacity but in no case shall emissions equal or exceed 20 percent opacity for more than an aggregate of three minutes in any one hour. Specific opacity

~~limits shall be included in the Air Contaminant Discharge Permit for each affected source.~~

~~(2) Particulate matter in excess of 0.05 grains per standard cubic foot, corrected to 12 percent CO_2.~~

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Stats. Implemented:ORS 468A.025~~

~~Hist.: DEQ 20-1991, f. & cert. ef. 11-13-91; DEQ4-1993, f. & cert. ef. 3-10-93~~

~~340-021-0230~~

~~Wood Particle Dryers at Particleboard Plants~~

~~(1)No person shall cause or permit the total emission of particulate matter from all wood particle dryers at a particleboard plant site to exceed 0.40 pounds per 1,000 square feet of board produced by the plant on a 3/4-inch basis of finished product equivalent.~~

~~(2) No person shall cause or permit the visible emissions from the wood particle dryers at a particleboard plant to exceed ten percent opacity, unless the permittee demonstrates by source test that the particleboard matter emission limit in section (1)of this rule can be achieved at higher visible emissions, but in no case shall emissions equal or exceed 20 percent opacity. Specific opacity limits shall be included in the Air Contaminant Discharge Permit for each effective source.~~

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Stats. Implemented:ORS 468A.025~~

~~Hist.: DEQ 20-1991, f. & cert. ef. 11-13-91; DEQ4-1993, f. & cert. ef. 3-10-93~~

~~340-021-0235~~

~~Hardboard Manufacturing Plants~~

~~(1) No person shall cause or permit total emissions of particulate matter from all sources within a hardboard plant, in excess of 0.55 pounds per 1,000 square feet of hardboard produced on a 1/8" basis of finished product equivalent.~~

~~(2) When calculating emissions for this section, emissions from truck dump and storage areas, fuel burning equipment, and refuse burning equipment are not included.~~

~~Stat. Auth: ORS Ch. 468 & 468A~~

~~Stats. Implemented: ORS 468.020 & 468A.025~~

~~Hist.: DEQ 20-1991, f. & cert. ef. 11-13-91; DEQ4-1993, f. & cert. ef. 3-10-93; DEQ 3-1996, f. & cert. ef. 1-29-96~~

~~340-021-0240~~

~~Air Conveying Systems~~

~~(1) No person shall cause or permit the emission of particulate matter in excess of 0.1 grains per standard cubic foot from any air conveying system emitting less than or equal to ten tons of particulate matter to the atmosphere during any 12-month period beginning on or after January 1, 1990.~~

~~(2)All air conveying systems emitting greater than ten tons of particulate matter to the atmosphere during any 12-month period beginning on or after January 1, 1990 shall be equipped with a control system with a collection efficiency of at least 98.5 percent or equivalent control as approved by the Department.~~

~~(3)No person shall cause or permit the emission of any air contaminant which is equal to or greater than five percent opacity from any air conveying system subject to section (2)of this rule.~~

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Stats. Implemented:ORS 468A.025~~

~~Hist.: DEQ 20-1991, f. & cert. ef. 11-13-91; DEQ4-1993, f. & cert. ef. 3-10-93~~

~~340-021-0245~~

~~Fugitive Emissions~~

~~The owner or operator of a large sawmill, any plywood mill or veneer manufacturing plant, particleboard plant, hardboard plant, or charcoal manufacturing plant that is located in an area subject to contingency requirements under OAR 340-021-0210 shall comply with OAR 340-030-0043.~~

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Stats. Implemented:ORS 468A.025~~

~~Hist.: DEQ 20-1991, f. & cert. ef. 11-13-91; DEQ4-1993, f. & cert. ef. 3-10-93~~

Attachment A

DIVISION 34

RESIDENTIAL WOODHEATING

Woodburning Curtailment

340-034-0150

Applicability

OAR 340-034-0150 through 340-034-0175 shall apply to any portion of the state:

(1) Where the Department has determined that, under the requirements of the Clean Air Act, an enforceable woodburning curtailment program is required as an emission reduction control strategy for a PM_{10} nonattainment area and the Department has determined that the local government or regional authority has failed to adopt or adequately implement the required woodburning curtailment program. In determining whether a local government or regional authority has failed to adequately adopt or implement a curtailment program, the Department shall determine if a local government or regional authority:

(a) Has adopted an ordinance that requires the curtailment o f residential woodheating at forecasted air pollution levels which are consistent with the curtailment conditions and requirements specified in OAR 340-034-0155(1) and 340-034-0160(1) and (2);

(b) Is issuing on a daily basis curtailment advisories to the public consistent with OAR 340-034-0165; and

(c) Is conducting surveillance for compliance and is taking adequate enforcement actions consistent with OAR340-034-0170.

(2) Where the Department has determined that, under the requirements of the Clean Air Act, an enforceable woodburning curtailment program is required as an emission abatement strategy to respond to an air pollution emergency.

~~(3) That is classified as a nonattainment area for PM10 that does not achieve attainment by December 31, 1994, and does not have an enforceable curtailment program that satisfies the criteria in sections (1)(a), (b) and (c) above.~~

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047.]

Stat. Auth.: ORS Ch. 468 & 468A

Stats. Implemented: ORS 468A.515

Hist.: DEQ 25-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 10-1995, f. & cert. ef. 5-1-95

Woodstove Removal Contingency Program for PM_{10} Nonattainment Areas

340-034-0200
Applicability

OAR340-034-0200 though 340-034-0215 shall apply to any area classified as a nonattainment area for PM_{10} that does not achieve attainment by ~~December 31, 1994.~~ the applicable Clean Air Act deadline.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-020-0047.]

Stat. Auth.: ORS Ch. 468 & 468A

Stats. Implemented: ORS 468A.480

Hist.: DEQ 25-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 10-1995, f. & cert. ef. 5-1-95

Attachment B-1

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING
A Statement of Need and Fiscal Impact accompanies this form.

DEQ – Air Quality Agency and Division	Chapter 340 Administrative Rules Chapter Number
Susan M. Greco Rules Coordinator	(503) 229-5213 Telephone
811 S.W. 6th Avenue, Portland, OR 97213 Address	

		Department of Human Resources Conference Room, 700 Klamath Ave.	
September 29, 1998	6:00 p.m.	Klamath Falls, OR 97601	DEQ Staff
Hearing Date	Time	Location	Hearings Officer
		DEQ Western Region Office 2nd Floor Conference Room,	
September 29, 1998	6:00 p.m	750 Front Street NE, Salem, OR 97310	DEQ Staff
Hearing Date	Time	Location	Hearings Officer

Are auxiliary aids for persons with disabilities available upon advance request?
☒ Yes ☐ No

RULEMAKING ACTION

AMEND:

OAR 340-020-0047, OAR 340-028-0110, OAR 340-028-1930, OAR 340-028-1935, OAR 340-028-1940, OAR 340-031-0500, OAR 340-031-0520, ~~OAR 340-031-0525~~, OAR 340-031-0530, OAR 340-034-0150, OAR 340-034-0200

REPEAL:

OAR 340-021-0200, OAR 340-021-0205, OAR 340-021-0210, OAR 340-021-0215, OAR 340-021-0220, OAR 340-021-0225, OAR 340-021-0230, OAR 340-021-0235, OAR 340-021-0240, OAR 340-021-0245

Stat. Auth.: ORS 468A.035 and ORS 468.020
Stats. Implemented: ORS 468A.025, 468A.035 or 468A.040

RULE SUMMARY

The Department of Environmental Quality (DEQ) is proposing that the Environmental Quality Commission adopt rule amendments for new or expanding major industrial sources that emit Particulate Matter under 10 microns in size (PM10), Volatile Organic Compounds (VOC), or Nitrogen Oxides (NOx). These amendments will be submitted to

the Environmental Protection Agency as revisions to OAR 340-020-0047 – the State Implementation Plan (SIP) – as required by the Clean Air Act.

This proposed rulemaking would apply to four communities that have previously violated the "PM10" air quality health standard - Klamath Falls, Lakeview, La Grande and Grants Pass - and a fifth community that previously violated the ozone air quality standard - Salem. Since these communities have been in compliance with air quality standards, the Department intends to eliminate their "nonattainment" designation concurrent with this rulemaking. Once the nonattainment area designations are eliminated, requirements that apply to new transportation projects (Transportation Conformity requirements) will no longer apply in these communities for PM10 and ozone. This rulemaking proposes to replace more stringent requirements for new or expanding major industrial sources that currently apply in these communities with less stringent Prevention of Significant Deterioration (PSD) requirements, similar to those that currently apply to communities which never violated air quality standards. However, two more stringent PSD requirements are being proposed for the four communities identified above, and one more stringent PSD requirement is being proposed for Salem. This rulemaking also contains other related amendments, including eliminating the nonattainment designation for "Total Suspended Particulate" (TSP) for the three remaining TSP nonattainment communities - Portland, Eugene-Springfield, and Medford-Ashland. TSP is a state-only air quality standard that preceded the PM10 standard, and all three communities are in compliance with both standards.

Copies of the proposed rules and rule packages are available for review at the 11th Floor of DEQ Headquarters (address above) or the following DEQ offices: Eastern Region Klamath Falls Office, 700 Main Street, Suite 202, Klamath Falls, OR 97601, and the Western Region Salem Office, 750 Front Street NE, Suite 120, Salem, OR, 97310. Copies are also available by calling (503) 229-6278.

Written comments should be submitted to the attention of Brian Finneran at Oregon DEQ Headquarters, 11th Floor, 811 S.W. 6th Avenue, Portland, Oregon 97204, or by FAX to (503) 229-5675

October 2, 1998 at 5:00 p.m.
Last Day for Public Comment

Lydia Taylor 9/14/98
Authorized Signer and Date

Attachment B-2

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal
for
New Source Review/Prevention of Significant Deterioration Rule Amendments and Miscellaneous Revisions Associated with Revocation of the Pre-Existing PM10 Standard

Fiscal and Economic Impact Statement

Introduction

The Department of Environmental Quality (DEQ) is proposing rule amendments that will have an economic impact on new or expanding major industrial sources that emit Particulate Matter under 10 microns in size (PM10), Volatile Organic Compounds (VOC), or Nitrogen Oxides (NOx). These amendments would apply to four current PM10 nonattainment areas (Klamath Falls, Lakeview, La Grande and Grants Pass) and the former Salem ozone nonattainment area. Based on federal guidance, the Department proposes revoking the pre-existing PM10 standard and eliminating the nonattainment designation for these areas and Salem. Once these nonattainment area designations are eliminated, Transportation Conformity requirements will no longer apply to these areas for PM10 and ozone. Also in accordance with this guidance, these amendments will replace the stringent New Source Review (NSR) industrial control and offset requirements with less stringent Prevention of Significant Deterioration (PSD) requirements similar to those that apply to areas which never violated air quality standards. In order to protect public health and avoid possible future nonattainment from reoccurring, the proposed amendments contain two more stringent PSD requirements for the four current PM10 nonattainment areas and one more stringent PSD requirement for the former Salem ozone nonattainment area.

This rulemaking also contains other amendments associated with revocation of the PM10 standard. These include: (1) increasing the PM10 Significant Emission Rate (SER) for new and expanding major industries in Klamath Falls and Lakeview area from 5 to 15 tons per year, which was the SER for those areas prior to becoming nonattainment areas, and is consistent with the SER in all other areas in the state except Medford-Ashland; and (2) revoking the state Total Suspended Particulate (TSP) nonattainment area designation for the three remaining TSP nonattainment areas in Oregon (Portland, Eugene-Springfield, and Medford-Ashland), since

these areas have been in compliance with the state TSP standard for many years, and are being effectively protected by on-going PM10 control programs.

General Public

Removal of the "nonattainment" designation for these communities and replacement of NSR requirements with PSD requirements is anticipated to have a positive economic impact on future decisions of new major industrial sources wishing to locate in these communities, and existing sources wishing to make a major modification or expansion. This may result in some industrial growth in these communities, and a related increase in new jobs.

Small Business

The PSD rules apply only to major point sources. An economic impact on small business is not anticipated.

Large Business

The proposed rules would affect new major industrial sources and existing industrial sources wishing to expand that emit PM10, VOCs and NOx in these communities. Once the nonattainment designation for these areas is revoked, these proposed rules would replace the more costly NSR requirements for Nonattainment Areas (OAR 340-028-1930) with less costly PSD requirements (OAR 340-028-1940), as described below in #1 through #3, with the exception of two more stringent PSD requirements, as outlined below in #4.

1. **Control Technology.** The Department's NSR rules require new or expanding major industrial sources to install the Lowest Achievable Emission Rate (LAER) control technology. LAER reflects the most stringent level of emission reduction achievable in practice by the top facilities in the source classification regardless of cost.

   Under PSD rules, sources are required to install Best Available Control Technology (BACT), except as discussed in #4 below. In establishing the appropriate level for BACT, a source may consider the overall economic impact, including factors such as energy, environmental and other costs. BACT establishes the maximum degree of emission reduction considering economic impacts to the source.

2. **Offsets vs. Increments.** Under NSR rules, emissions from new or expanding major industrial sources are not allowed unless they are "offset" by reductions from existing sources. A source needing offsets typically must purchase emission credits from an existing source or assist that source in creating surplus emission reductions. The costs associated with offsets can vary. A recent offset in the Medford area was reportedly purchased for approximately $1,500 per ton of PM10. (Under current NSR rules the offset requirement with respect to ozone formation does not apply to new or expanding major VOC and NOx sources locating in or impacting the Salem area.)

Under PSD rules, new emissions are allowed but only of a specific amount or "increment". These are known as "PSD Increments". For PM10, daily and annual PSD Increments have been established (there are no ozone-related increments). Most attainment areas are subject to the Class II PSD Increments for PM10, which are 17 ug/m3 for the annual, and 30 ug/m3 for the daily.

3. **Air Quality Benefit vs. Analysis.** Under NSR rules, sources are required to demonstrate a "Net Air Quality Benefit" as a result of the application of offsets. Under PSD rules, sources must conduct an "Air Quality Analysis" that shows no adverse impact on air quality from the additional air pollution. (Under current PSD rules the air quality analysis with respect to ozone formation is not required for new or expanding major VOC and NOx sources locating in or impacting the Salem area.) In general, the cost to meet these requirements is about the same.

4. **Proposed more stringent requirements.** The proposed PSD rules contain two more stringent PSD requirements for the four current PM10 nonattainment areas and one more stringent PSD requirement for the former Salem ozone nonattainment area. These are:

   - **No BACT exemption.** Under general PSD requirements, certain sizes and categories of sources that satisfy the air quality analysis requirement can be exempted from BACT. Under the proposed rules, no exemption to BACT would be allowed for either the four current PM10 nonattainment areas or the former Salem ozone nonattainment area. This is the same requirement for new or expanding major industrial sources as contained in the Department's maintenance area rules (OAR 340-028-1935) as mentioned above.

     The Department anticipates that few sources will be affected by this requirement. Little industrial growth has been occurring in these communities. Some new or expanding sources may even continue to apply LAER controls, as the cost difference between BACT and LAER can be minimal, and many sources now routinely install LAER controls to avoid the need for any future retrofiting. It should be noted that a source that would have received a BACT exemption under the current PSD rules could still be subject to other applicable rule requirements, such as Standards of Performance for New Stationary Sources (NSPS), or specific industrial source emission limitations.

   - **Limits on new emissions to the airshed.** Rather than continue to require emission offsets, the Department believes a small amount of new PM10 emissions should be allowed, similar to the use of "growth allowances" provided under the Department's maintenance area rules. The proposed rules would limit new PM10 emissions to 4 ug/m3 for the annual and 8 ug/m3 for the daily, which is approximately 75 percent less than the PSD Increments described above for attainment areas. The Department believes these "former" PM10 nonattainment areas to have less airshed room for new emissions from new or expanding major industrial sources, and believes this level is appropriate based on

past pollution levels, and the likelihood that future pollution levels will be close to the new annual PM2.5 standard.

The effect of this limit on new emissions will depend upon the number and size of new or expanding major sources in each community. Although little industrial growth has been occurring in these communities, a significant increase in growth could reach this limit, necessitating the need for offsets, as currently required in these areas. Since any new or expanding major sources will be installing BACT or better control technology as described above, new PM10 emissions to the airshed will be minimized, leaving more room for growth. It should be noted that if the PSD Class II Increments were applied in these areas and ambient pollution levels were high such that full use of the Class II Increment would exceed air quality standards, then only partial use of the increment would be allowed.

Local Governments

The New Source Review program applies only to major point sources. An economic impact on local governments is not anticipated.

State Agencies

1. DEQ: The proposed rulemaking outlined above will not require any additional resources.

2. Other Agencies: The proposed rulemaking outlined above will not require any additional resources. Elimination of the Transportation Conformity requirements in these areas for PM10 and ozone will result in cost savings for the Oregon Department of Transportation.

Housing Cost Impact Statement

The Department has determined that this proposed rulemaking will have no effect on the cost of development of a 6,000 square foot parcel and the construction of a 1,200 square foot detached single family dwelling on that parcel.

Attachment B-3

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal
for
New Source Review/Prevention of Significant Deterioration Rule Amendments and Miscellaneous Revisions Associated with Revocation of the Pre-Existing PM10 Standard

Land Use Evaluation Statement

1. Explain the purpose of the proposed rules.

The Department of Environmental Quality (DEQ) is proposing rule amendments for new or expanding major industrial sources that emit Particulate Matter under 10 microns in size (PM10), Volatile Organic Compounds (VOC), or Nitrogen Oxides (NOx). These amendments would apply to four current PM10 nonattainment areas (Klamath Falls, Lakeview, La Grande and Grants Pass) and the former Salem ozone nonattainment area. Based on federal Interim Implementation Guidance, the Department proposes revoking the pre-existing PM10 standard and eliminating the nonattainment designation for these areas and Salem. Once these nonattainment area designations are eliminated, Transportation Conformity requirements will no longer apply to these areas for PM10 and ozone. Also in accordance with this guidance, these amendments will replace the stringent industrial control and offset requirements that currently apply in these areas with less stringent Prevention of Significant Deterioration (PSD) requirements similar to those that apply to areas which never violated air quality standards. In order to protect public health and avoid possible future nonattainment from reoccurring, this proposal contains two more stringent PSD requirements for the four current PM10 nonattainment areas and one more stringent PSD requirement for the former Salem ozone nonattainment area. This rulemaking also contains various amendments associated with revocation of the PM10 standard, and includes revoking the state Total Suspended Particulate (TSP) nonattainment area designation for the three remaining TSP nonattainment areas in Oregon (Portland, Eugene-Springfield, and Medford-Ashland), since these areas have been in compliance with the state TSP standard for many years, and are being effectively protected by on-going PM10 control programs.

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? X Yes No

a. If yes, identify existing program/rule/activity:

The major New Source Review/Prevention of Significant Deterioration program is implemented through the Air Contaminant Discharge Permit (ACDP) and Oregon Title V Operating Permit programs, which is an existing activity identified in the LCDC-approved DEQ State Agency Coordination (SAC) agreement (Division 18), as having significant effects on land use.

b. If yes, do the existing statewide goal compliance and local plan compatibility procedures adequately cover the proposed rules? x Yes ☐ No (if no, explain):

The existing procedure for statewide goal compliance and local plan compatibility adequately covers these proposed amendments. Under this procedure, the Department requires applicants for an ACDP to obtain a land use compatibility statement from the appropriate local jurisdiction before issuing the permit.

c. If no, apply the following criteria to the proposed rules.

N/A...c

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 and 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 involved 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 New Source Review/Prevention of Significant Deterioration program is covered by a SAC agreement as explained under 2a.

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

Gregory A. Gra
Division

Intergovernmental Coordinator

8/11/98
Date

Attachment B-4

Questions to be Answered to Reveal Potential Justification for Differing from Federal Requirements.

1. Are there federal requirements that are applicable to this situation? If so, exactly what are they?

Applicable federal requirements include the Clean Air Act as amended in 1990, and federal guidance for implementing new National Ambient Air Quality Standards (NAAQS) for ozone and particulate (the Interim Implementation Guidance). Under this federal guidance, new or expanding major industrial sources in former PM10 and ozone nonattainment areas would become subject to less stringent Prevention of Significant Deterioration (PSD) requirements rather than nonattainment area New Source Review (NSR) requirements.

2. Are the applicable federal requirements performance based, technology based, or both with the most stringent controlling?

Federal requirements are both technology based and performance based. Performance based requirements are controlling in that compliance with national ambient air quality standards is the primary requirement under the Clean Air Act.

3. Do the applicable federal requirements specifically address the issues that are of concern in Oregon? Was data or information that would reasonably reflect Oregon's concern and situation considered in the federal process that established the federal requirements?

Yes, the Department's comments were considered by EPA during the process to establish new ozone and particulate standards and in developing the Interim Implementation Guidance. The Department expressed concerns about the replacing NSR requirements with PSD requirements, given that the focus of the federal guidance is to continue implementation of all existing PM10 control measures that were used for attaining the PM10 standard.

4. Will the proposed requirement improve the ability of the regulated community to comply in a more cost effective way by clarifying confusing or potentially conflicting requirements (within or cross-media), increasing certainty, or preventing or reducing the need for costly retrofit to meet more stringent requirements later?

Yes, the proposed rules will improve the ability of new and expanding major industry to comply in a more cost effective way requiring mostly less stringent requirements, except for two

specific PSD requirements which will protect air quality and avoid possible future nonattainment and more stringent control requirements.

5. Is there a timing issue which might justify changing the time frame for implementation of federal requirements?

No

6. Will the proposed requirement assist in establishing and maintaining a reasonable margin for accommodation of uncertainty and future growth?

Yes, the proposed rules will eliminate the offset requirement for new and expanding major sources, which does not allow new emissions, and replace it with a limit that does allow new emissions into the airshed. This will ensure a reasonable margin for accommodating future growth.

7. Does the proposed requirement establish or maintain reasonable equity in the requirements for various sources? (level the playing field)

Yes.

8. Would others face increased costs if a more stringent rule is not enacted?

Potentially at a future date if the new particulate or ozone standards are exceeded.

9. Does the proposed requirement include procedural requirements, reporting or monitoring requirements that are different from applicable federal requirements? If so, Why? What is the "compelling reason" for different procedural, reporting or monitoring requirements?

No. While the two specific PSD requirements that are proposed are more stringent than the federal guidance, they contain basically the same procedural, reporting, and monitoring requirements as current PSD rules.

10. Is demonstrated technology available to comply with the proposed requirement?

Yes

11. Will the proposed requirement contribute to the prevention of pollution or address a potential problem and represent a more cost effective environmental gain?

Yes

State of Oregon
Department of Environmental Quality **Memorandum**

Date: August 10, 1998

To: Interested and Affected Public

Subject: Rulemaking Proposal and Rulemaking Statements - New Source Review/Prevention of Significant Deterioration Rule Amendments and Miscellaneous Revisions Associated with Revocation of the Pre-existing PM10 Standard, as an amendment to Oregon Clean Air Act State Implementation Plan.

This memorandum contains information on a proposal by the Department of Environmental Quality (DEQ) to adopt rule amendments regarding the requirements applicable to new or expanding major industrial sources in four current PM10 (particulate matter under 10 microns in size) nonattainment areas (Klamath Falls, Lakeview, La Grande and Grants Pass) and in the former Salem ozone nonattainment area. Based on the Interim Implementation Guidance from the Environmental Protection Agency (EPA), the Department proposes revoking the pre-existing PM10 standard and eliminating the nonattainment designation for these areas and Salem. This action is strongly supported by these communities. The elimination of the PM10 nonattainment designations will be effective upon final notice in the Federal Register. For Salem, which has already been redesignated by EPA, elimination of the ozone nonattainment designation will be effective upon rule filing with the Secretary of State. According to EPA's guidance, once these nonattainment area designations are eliminated, Transportation Conformity requirements will no longer apply to these areas for PM10 and ozone.

Also in accordance with EPA's guidance, these amendments will replace the stringent industrial control and offset requirements that currently apply in these areas with less stringent Prevention of Significant Deterioration (PSD) requirements similar to those that apply to areas which never violated air quality standards. In order to protect public health and avoid possible future nonattainment, this proposal contains two more stringent PSD requirements for the four current PM10 nonattainment areas and one more stringent PSD requirement for the former Salem ozone nonattainment area.

This rulemaking also contains various amendments associated with revocation of the PM10 standard, and includes revoking the state Total Suspended Particulate (TSP) nonattainment area designation for the three remaining TSP nonattainment areas in Oregon: Portland, Eugene-Springfield, and Medford-Ashland. These areas have been in compliance with the state TSP standard for many years, and are being effectively protected by on-going PM10 control programs.

The Department has the statutory authority to address the issue under the Oregon Revised Statues (ORS) chapter 468A.035 and also 468.020. These rule amendments, if approved by the Commission, will be adopted as a revision to the State of Oregon Clean Air Act Implementation Plan (OAR 340-020-0047) and submitted to the U.S. Environmental Protection Agency for approval under the provisions of the Clean Air Act.

What's in this Package?

Attachments to this memorandum provide details on the proposal as follows:

Attachment A	The official statement describing the fiscal and economic impact of the proposed rule. (Required by ORS 183.335)
Attachment B	A statement providing assurance that the proposed rules are consistent with statewide land use goals and compatible with local land use plans.
Attachment C	Questions to be Answered to Reveal Potential Justification for Differing from Federal Requirements.
Attachment D	Proposed amendments to OAR Division 28.
Attachment E	Proposed amendments to OAR Division 31
Attachment F	Proposed amendments to OAR Divisions 21 and 34

A copy of the draft rule revision is available upon request from the Air Quality Division in Portland, 811 S.W. 6th Avenue, Portland, Oregon, 97204. A copy is also located at the Department of Environmental Quality, Eastern Region Klamath Falls Office, 700 Main Street, Suite 202, Klamath Falls, Oregon 97601, and the Western Region Salem Office, 750 Front Street NE, Suite 120, Salem, Oregon, 97310.

Hearing Process Details

The Department is conducting two public hearings at which comments will be accepted either orally or in writing. The hearings will be held as follows:

Date:	Tuesday, September 29, 1998
Time:	6 p.m. to 7 p.m.
Place:	Department of Human Resources Conference Room 700 Klamath Avenue Klamath Falls OR
Date:	Tuesday, September 29, 1998
Time:	6 p.m. to 7 p.m.

Place: DEQ Western Region Salem Office
Second Floor Conference Room
750 Front Street
Salem OR

Deadline for submittal of Written Comments: 5:00 p.m., Friday, October 2, 1998

DEQ staff members Jeff Ross from the DEQ Klamath Falls Office and Barbara Michels from the DEQ Salem Office will serve as hearings officers.

Written comments can be presented at the hearing or to the Department any time prior to the deadline above. Comments should be sent to: Department of Environmental Quality, Attn: Brian Finneran, 811 S.W. 6th Avenue, Portland, Oregon 97204, fax (503) 229-5675, or by email to finneran.brian@deq.state.or.us. Written comments can also be hand delivered to the Department of Environmental Quality, 811 S.W. 6th, 11th Floor between 8:00 a.m. and 5:00 p.m.

In accordance with ORS 183.335(13), no comments from any party can be accepted after the deadline for submission of comments has passed. Thus if you wish for your comments to be considered by the Department in the development of these rules, your comments must be received prior to the close of the comment period. The Department recommends that comments are submitted as early as possible to allow adequate review and evaluation of the comments submitted.

What Happens After the Public Comment Period Closes

Following close of the public comment period, the Presiding Officer will prepare a report which summarizes the oral testimony presented and identifies written comments submitted. The Environmental Quality Commission (EQC) will receive a copy of the Presiding Officer's report. The public hearing will be tape recorded, but the tape will not be transcribed.

The Department will review and evaluate the rulemaking proposal in light of all information received during the comment period. Following the review, the rules may be presented to the EQC as originally proposed or with modifications made in response to public comments received.

The EQC will consider the Department's recommendation for rule adoption during one of their regularly scheduled public meetings. The targeted meeting date for consideration of this rulemaking proposal is December 11, 1998. This date may be delayed if needed to provide additional time for evaluation and response to testimony received in the hearing process.

You will be notified of the time and place for final EQC action if you present oral testimony at the hearing or submit written comment during the comment period. Otherwise, if you wish to be kept advised of this proceeding, you should request that your name be placed on the mailing list.

Background on Development of the Rulemaking Proposal

As part of EPA's Interim Implementation Guidance for the new particulate standards (PM10 and PM2.5), EPA has established a process for revoking the pre-existing PM10 standard and has eliminated the requirement for developing long-term maintenance plans for PM10. Once the pre-existing standard is revoked, the area's nonattainment designation would also be revoked. Under this guidance, new or expanding major industrial sources in these "former" PM10 nonattainment areas would become subject to the less stringent Prevention of Significant Deterioration (PSD) requirements for Attainment and Unclassified Areas, rather than the more stringent New Source Review (NSR) requirements for Nonattainment Areas. In addition, the transportation conformity requirement would be eliminated for PM10 and ozone.

In the Department's NSR rules for nonattainment areas (OAR 340-028-1930), new or expanding major industrial sources are required to install the Lowest Achievable Emission Rate (LAER) control technology. In the PSD rules for attainment areas (OAR 340-028-1940), these sources are required to install Best Available Control Technology (BACT) and conduct an air quality analysis that shows no adverse impact on air quality from the additional air pollution. (Certain source sizes and categories which satisfy the air quality impact requirement can be exempted from BACT.) In nonattainment areas, new emissions from new or expanding major industrial sources are not allowed unless they are "offset" by reductions from existing sources. In attainment areas, new emissions are allowed but only of specific amounts or "PSD increments". It should be noted while there are PM10 PSD increments, there are no increments related to ozone formation (i.e., sources emitting VOC and NOx).

Recently, the Salem area was redesignated from an ozone nonattainment area to attainment by EPA, based on air monitoring data showing compliance with the pre-existing 1-hour ozone standard. Since EPA's Interim Implementation Guidance also applies to former ozone nonattainment areas like Salem, no maintenance plan is required, and the less stringent PSD requirements would apply to new or expanding major industrial sources that emit Volatile Organic Compounds (VOCs) and Nitrogen Oxides (NOx). For the Salem area, this primarily would mean replacing LAER with BACT. Under current NSR and PSD rules, the offset requirement and air quality analysis requirement do not apply to new or expanding major VOC and NOx sources locating in or impacting the Salem area.

Why is there a need for the rule?

This rule is needed to protect public health and air quality in light of the new particulate standards and revised ozone standard.

Recent air monitoring shows that Oregon's current seven PM10 nonattainment areas are in compliance with PM10 standards. Over the next year, all seven areas are scheduled to have their nonattainment designation revoked as part of the transition into the new particulate standards for PM10 and PM2.5. Earlier this year EPA redesignated the Salem area from an ozone nonattainment area to attainment. This rulemaking will eliminate the nonattainment area designation for Salem as a matter of state law. For the seven PM10 areas, the nonattainment designation will be revoked upon final notice in the Federal Register.

Under the federal Interim Implementation Guidance, these areas would be allowed to replace LAER and offset requirements for new or expanding major industrial sources with BACT and PSD Increments, similar to the requirements that apply to areas that never violated standards. This same guidance requires "former" PM10 nonattainment areas to keep all existing PM10 control measures that were used for attaining the PM10 standard until compliance with the new PM2.5 standard is determined. The Department is concerned that "basic" PSD requirements will not be protective enough in these areas because they have had historically higher pollution levels than attainment areas, and may be more likely in the future to have levels close to the new standards. Therefore, the Department proposes more stringent PSD requirements than would be required under federal guidance. While more stringent these proposed requirements are less stringent than continuing the current NSR requirements.

This rulemaking would apply to four of the seven PM10 nonattainment areas and the former Salem ozone nonattainment area. The four PM10 areas are Klamath Falls, Lakeview, La Grande and Grants Pass. Two other PM10 nonattainment areas in Lane County, Eugene-Springfield and Oakridge, will be subject to identical PSD requirements being adopted by the Lane Regional Air Pollution Authority. The remaining PM10 nonattainment area, Medford-Ashland, will be retaining the current NSR requirements, as the result of separate DEQ rulemaking adopted at the August 7th EQC meeting.

In conjunction with revoking the pre-existing PM10 standard, the Department needs to revoke the TSP nonattainment designation for the three remaining TSP nonattainment areas in Oregon: Medford-Ashland, Eugene-Springfield, and Portland. In 1987, EPA replaced the TSP standard with the PM10 standard. At that time these communities were TSP nonattainment areas, with Medford-Ashland and Eugene-Springfield becoming PM10 nonattainment areas. When the Department adopted the federal PM10 standard, it retained the TSP standard as a state-only

standard. Over the last several years all three of these areas have been well under the TSP standard. The implementation of PM10 control programs in these areas, especially Medford-Ashland and Eugene-Springfield, have had a significant impact on controlling TSP, since PM10 is a major component of TSP. If the TSP nonattainment designation is not removed for Medford-Ashland and Eugene-Springfield, the NSR rules for new or expanding major industries will continue for TSP emissions. This would be inconsistent with the Department's efforts to revoke the PM10 nonattainment designation and replace NSR with PSD requirements.

Summary of Rulemaking Proposal

This rulemaking proposal recommends the following:

1. Proceed with the revocation of the pre-existing PM10 standard in accordance with federal guidance, and elimination of the PM10 nonattainment area designations for Klamath Falls, Lakeview, La Grande and Grants Pass, and ozone nonattainment area designation for Salem. Associated with elimination of the nonattainment designation will be removal of Transportation Conformity requirements in these areas for PM10 and ozone. Under federal rules this requirement applies only to nonattainment areas. To continue to require transportation conformity in former nonattainment areas would mean revising Oregon's rules to subject all federal and non-federal transportation projects to the conformity requirements. This would be a significant burden to these communities, and applying conformity to attainment areas was not supported by a previous Advisory Committee. Also, in terms of air quality and meeting the new PM2.5 standard, continuing this requirement in former PM10 nonattainment areas would be of little benefit, since most emissions from transportation projects are re-entrained road dust, which is more of a PM10 than PM2.5 problem.

2. Proceed with revisions to the PSD rule (OAR 340-028-1940) that would subject new or expanding major industrial sources in four "former" PM10 nonattainment areas and the former Salem ozone nonattainment area to the following additional requirements:

    - **No BACT exemption.** Under general PSD requirements, certain sizes and categories of sources that satisfy the air quality analysis requirement can be exempted from BACT. Under the proposed rules, no exemption to BACT would be allowed. This is the same requirement for new or expanding major industrial sources as contained in the Department's maintenance area rules (OAR 340-028-1935). The Department anticipates that few sources will be affected by this requirement. Little industrial growth has been occurring in these communities. Some new or expanding sources may even continue to apply LAER controls, as the cost difference between BACT and LAER can be minimal,

and many sources now routinely install LAER controls to avoid the need for any future retrofitting.

- **Limits on new PM10 emissions to the airshed.** Rather than continue to require emission offsets, the Department believes a small amount of new PM10 emissions should be allowed, similar to the use of "growth allowances" provided under the Department's maintenance area rules. The proposed rules would limit new PM10 emissions to a level approximately 75 percent less than the "PSD Increment" for most attainment areas. The Department believes these "former" PM10 nonattainment areas to have less airshed room for new emissions from new or expanding major industrial sources, and believes this level is appropriate based on past pollution levels, and the likelihood that levels will be close to the new annual PM2.5 standard. The effect of this limit on new emissions will be dependent upon the number and size of new or expanding major sources in each community. Although little industrial growth has been occurring in these communities, a significant increase in growth could reach this limit, necessitating the need for offsets, as currently required in these areas. Since any new or expanding major sources will be installing BACT or better control technology as described above, new PM10 emissions to the airshed will be minimized, leaving more room for growth.

3. Proceed with miscellaneous revisions associated with revoking the PM10 nonattainment designations and EPA's recent redesignation of the Salem ozone nonattainment area. These include:

   - Revising the PM10 Significant Emission Rate (SER) for new and expanding major industries in Klamath Falls and Lakeview area from 5 to 15 tons per year, consistent with the SER in the other "former" PM10 nonattainment areas, and the PM10 SER that applies to all attainment areas.

   - Revoking the TSP nonattainment area designation in Portland, Eugene-Springfield, and Medford-Ashland, since there is no longer a federal air quality standard for TSP. These areas have been in compliance with this standard for many years, and are being effectively protected through on-going PM10 control programs.

   - Deletion of rule references in Division 31 to the above PM10 and TSP nonattainment areas, and Salem ozone nonattainment area.

   - Deletion of industrial contingency requirements in OAR 340-021-200 to 340-021-245, for the above PM10 nonattainment areas. These requirements are no longer needed because these areas attained the standard.

How was the rule developed?

These rules were developed by reviewing each of the current PSD requirements applicable to attainment areas, and evaluating what additional measures would be needed in the "former" PM10 and ozone nonattainment areas to protect air quality and avoid falling back into nonattainment. Since federal guidance eliminated the requirement for developing maintenance plans, the Department looked at previously adopted rules for carbon monoxide and ozone maintenance areas (OAR 340-028-1935). The PSD rules that were developed are similar to the Department's maintenance area rules (see "BACT" discussion under #2 above).

An internal DEQ workgroup from headquarters and regional offices assisted in the development of draft rules. In lieu of an advisory committee, the Department conducted stakeholder review and outreach for these proposed PSD rules, where meetings and discussions where held with representatives from the following groups: (1) Oregon Associated Industries; (2) local major industries; (3) local city government; (4) local air quality committees; (4) Oregon Economic Development Department; (5) the Oregon Chapter Sierra Club; and (6) the Lane Regional Air Pollution Authority. Those identified as "local" were from each respective nonattainment area. Most representatives expressed support for this proposed rulemaking, while some offered no comment.

Copies of the documents relied upon in the development of this rulemaking proposal can be reviewed at the Department of Environmental Quality's office at 811 S.W. 6th Avenue, Portland, Oregon (11th floor). Please contact Brian Finneran for times when the documents are available for review. These include: Chapter 340, Division 28, Oregon Administrative Rules; Interim Implementation Guidance, U.S. EPA, December 23, 1997.

Whom does this rule affect including the public, regulated community or other agencies, and how does it affect these groups?

This rule will affect new or expanding major industrial sources in the "former" PM10 nonattainment areas identified above and former Salem ozone nonattainment area. New or expanding major industrial sources in these areas will benefit from no longer being required to provide LAER level control technology and emission offsets. These sources, however, will be subject to more stringent requirements than other sources located in attainment areas.

How will the rule be implemented?

DEQ regional and headquarters staff will implement the PSD rule requirements being proposed. Implementation guidance will be prepared for staff permit writers and presented at the first

inspectors training meeting following rule adoption in December. Staff is already familiar with implementation of existing PSD rules, so no problems are expected.

Are there time constraints?

Final adoption of this rulemaking (12/11/98) needs to coincide with the revocation of the pre-existing PM10 standard for the above PM10 nonattainment areas, which is tentatively scheduled for early 1999.

Contact for More Information

If you would like more information on this rulemaking proposal, or would like to be added to the mailing list, please contact: Brian Finneran, (503) 229-6278, 811 SW 6th Ave., Portland, OR 97204.

This publication is available in alternate format (e.g. large print, Braille) upon request. Please contact DEQ Public Affairs at 503-229-5317 to request an alternate format.

Attachment C

State of Oregon
Department of Environmental Quality Memorandum

Date: October 5, 1998

To: Environmental Quality Commission

From: Brian Finneran

Subject: Presiding Officer's Report for Rulemaking Hearing
Hearing Date and Time: September 29, 1998, beginning at 6:00 P.M.
Hearing Locations: DEQ Western Region Salem Office
Second Floor Conference Room
750 Front Street
Salem OR

Department of Human Resources
Conference Room
700 Klamath Avenue
Klamath Falls OR

Title of Proposal:

Adoption of New Source Review/Prevention of Significant Deterioration rule amendments, and miscellaneous revisions associated with revocation of the pre-existing PM10 and ozone standards, as a revision to the State Implementation Plan.

On September 29, 1998, two rulemaking hearings were held for the proposal above. DEQ staff members Jeff Ross from the DEQ Klamath Falls Office and Barbara Michels from the DEQ Salem Office served as hearing officers. No one attended the Salem public hearing. At the Klamath Falls public hearing, there was one person in attendance who did not wish to provide testimony.

Summary of Oral Testimony

No oral testimony was provided at these hearings.

Written Testimony

The following written comments were submitted to the Department prior to the close of the public comment period on October, 2, 1998, and are attached to this report:

Memo To: Environmental Quality Commission
October 5, 1998
Presiding Officer's Report on
September 29, 1998 Rulemaking Hearings

1. Thomas R. Wood, Attorney, Stoel Rives LLP, Portland, Oregon.

   Mr. Wood indicated that he supported the rulemaking and recognized the progress that has been made in achieving the air quality standards in recent years. He identified in his comments several suggestions and clarifications that were needed to the proposed rule amendments:

   (a) clarify that new major VOC or NOx sources in the Salem area which also emit PM10 would not be required to conduct an air quality analysis;

   (b) remove the "source compliance" provision that applies to these former nonattainment areas;

   (c) clarify that if "offsets" are provided by a PM10 source, no air quality monitoring will be required;

   (d) clarify that if in the future an air quality analysis is required for major sources in the Salem area, any "offsets" that a source chooses to provide can be at a 1 to 1 ratio;

   (e) clarify that if a PM10 source provides offsets, it is entitled to avoid modeling; and

   (f) in conjunction with the proposed elimination of TSP nonattainment area designations, delete two specific TSP rule requirements.

2. Oliver Luby, Air & Toxins Coordinator, Northwest Environmental Defense Center, Portland, Oregon.

   Mr. Luby commented that his organization's policy is to "promote the strictest standards possible", and that if the Department wishes to provide the highest protection of air quality it should consider not eliminating the PM10 and ozone nonattainment designations for the communities identified in this rulemaking. He points out that removing these designations does not mean these communities are "clean". He suggests the proposed more stringent PSD requirements may not be stringent enough, and that eliminating the TSP nonattainment areas is "a step towards eliminating the [TSP] standard altogether". He is also concerned about a cross-reference in the PSD rule to the visibility impact analysis rule that allows an exemption to this requirement.

3. Dave Bray, Region 10, Environmental Protection Agency, Seattle, Washington.

   Mr. Bray provided three minor comments clarifying the Rulemaking Statements prepared by the Department. On the proposed rule amendments, Mr. Bray commented on the need to correct two housekeeping cross-references that were inserted in the proposed rules:

   (a) the proposed cross-reference to the Department's definition of a "nonattainment area" in Division 31 rules needs to indicate that the EPA Administrator also designates areas as nonattainment; and

   (b) the proposed cross-reference to the Department's visibility impact rules could inadvertently exempt a new or expanding major source from an applicable requirement.

STOEL RIVES LLP
ATTORNEYS

STANDARD INSURANCE CENTER
900 SW FIFTH AVENUE, SUITE 2300
PORTLAND, OREGON 97204-1268
Phone (503) 224-3380 Fax (503) 220-2480
TDD (503) 221-1045
Internet: www.stoel.com

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AIR QUALITY DIVISION
Dept. Environmental Quality

September 23, 1998

THOMAS R. WOOD
Direct Dial
(503) 294-9396
E-mail trwood@stoel.com

By Fax and by Mail

Mr. Brian Finneran
Oregon Department of Environmental Quality
811 SW Sixth Ave
Portland, OR 97204-1390

Re: Comments on New Source Review Rulemaking

Dear Brian:

Thank you for the opportunity to comment upon the proposed revision to the Department's New Source Review regulations. Overall, we support the rulemaking and believe that it is testimony to the progress that has been made in achieving the National Ambient Air Quality Standards over the past several years. However, we respectfully submit a few suggestions concerning the rulemaking below.

Additional Requirements in Special Areas

The proposed language to be inserted in OAR 340-28-1940(8) appears to contain an unintended inconsistency. The intent of the rule is clearly to require that PM_{10} sources in Grants Pass, Klamath Falls, La Grande and Lakeview that trigger new source review perform an air quality analysis to ensure that they do not impact PM_{10} levels by more than the 4/8 microgram thresholds. It does not appear that this requirement was intended for PM_{10} sources in the Salem-Kaiser Area Transportation Study ("SKATS") area. However, the way that OAR 340-28-1940(8)(b) is written, we are concerned that a source that triggered the SER for PM_{10} and either NO_X or VOC would be required to make the "no impact" showing required by OAR 340-28-1940(8)(e). We believe that this was not intended.

We also object to the inclusion of the "source compliance" provision in OAR 340-28-1940(8). This requirement does not appear elsewhere in the Oregon PSD regulations and is not an appropriate requirement for the sources covered by this new language. The language has previously been incorporated into the maintenance area and nonattainment area

regulations, but there is no basis for inserting it into the PSD special area requirements. We suggest that this provision not be included in the final rule.

We also suggest that OAR 340-28-1940(8)(f) be expanded slightly to fully realize its intent. OAR 340-28-1940(8)(f) allows a source to avoid modeling if it provides offsets. One of the most contentious related aspects of modeling, however, is the requirement in OAR 340-028-1940(5) to perform a years worth of preconstruction monitoring. The regulation is clear that the purpose of collecting these data is to enable the permittee to demonstrate that it will not cause or contribute to a violation of the ambient air quality standards or applicable increments. In other words, the data are used in the modeling required to meet the air quality analysis aspect of the regulations. Because of this, we believe that it is appropriate to specify in OAR 340-28-1940(8)(f) that if offsets are provided, the Department will consider the requirements of sections 2, 5 and 8(e) to have been met.

We also urge the Department to clarify that offsets within the Salem-Kaiser SKATS area do not need to be provided at a 1.1 to 1 ratio. The proposed OAR 340-28-1940(8)(f) states that modeling can be avoided if offsets are provided. Currently, this is not an issue for VOC sources because ozone formation cannot be modeled. However, if in the future such modeling becomes possible, sources in the SKATS area may well choose to obtain offsets so as to avoid modeling. In that event it seems excessive to require that the offsets exceed the actual emissions by 10 percent, as is required in nonattainment and maintenance areas. Therefore we suggest that the rule make clear that one for one offsets are sufficient.

We further urge the Department to clarify that if a source provides offsets pursuant to OAR 340-28-1940(8)(f), it is entitled to avoid modeling. The proposed rule language states that if offsets are provided "the Department may consider the requirements of section 2 and subsection (e) of this section to have been met." We anticipate that this language will result in inconsistent application of the exception and will damage the area's ability to attract business because of the lack of certainty as to whether the Department will exempt the source from the expensive task of modeling. Therefore, we urge that the exemption be made definite and the "may" be changed to a "shall."

Therefore, we propose that this section be revised as follows:

Additional Requirements in Special Areas:

(a) In addition to the other requirements of this rule, proposed major sources and major modifications that would emit PM_{10} in excess of the significant emission rate within the areas identified below, shall meet the requirements in subsections (c) through (g) of this section.

(A) The Grants Pass UGB as defined in OAR 340-031-500.

(B) The Klamath Falls UGB as defined in OAR 340-031-500.
(C) The La Grande UGB as defined in OAR 340-031-500.
(D) The Lakeview UGB as defined in OAR 340-031-500.

(b) In addition to the other requirements of this rule, proposed major sources and major modifications that would emit VOC or NO_x in excess of the significant emission rate in the Salem SKATS area, as defined in OAR 340-031-500, shall meet the requirements in subsections (c), (e) and (f) of this section. With respect to ozone formation in the Salem SKATS, these sources are exempt from section (2) of this rule.

(c) BACT. The owner or operator of the proposed major source or major modification shall apply BACT in accordance with section (1) of this rule. The exemption to BACT provided under section (3) of this rule does not apply to areas listed in subsections (a) and (b).

(d) Air Quality Analysis. In addition to the requirements of section 2(a), the owner or operator of the proposed major source or major modification that would emit PM_{10} in excess of the significant emission rate shall demonstrate that the emissions would not cause or contribute to an ambient air impact in areas listed in subsection (a) of this section that is equal to or greater than 4 micrograms per cubic meter of PM_{10} as an annual arithmetic mean, or 8 micrograms per cubic meter of PM_{10} as a 24-hour average concentration for any calendar day.

(e) If the owner or operator of a proposed major source or major modification provides emission offsets in a 1:1 ratio that result in a net air quality benefit, pursuant to OAR 340-028-1970, the Department shall consider the requirements of section 2 and subsection (e) of this section to have been met.

(f) This rule does not apply to a proposed major source or major modification for which a complete application to construct was submitted to the Department before the PM_{10} or ozone nonattainment area designation for the areas in this section was revoked by EPA. Such a source is subject to OAR 340-028-1930.

TSP Standard

We welcome the Department's move to remove the vestiges of the regulation of TSP in the Oregon rules. We believe that this change will clarify the program and make it work more smoothly. However, we believe that the Department has left two unnecessary TSP elements in Division 31, the regulations addressing the ambient air quality standards, that should also be removed. Specifically, OAR 340-31-045, which addresses particle fallout, and OAR 340-31-050, which addresses lime dust, are both TSP standards. Therefore, we

urge the Department to remove these standards in their entirety, neither of which we understand to be in the SIP, at this time.

Please feel free to call me if you wish to discuss these comments.

Sincerely,

Thomas R. Wood

TRW:clv
cc: Mr. John Ledger, AOI
Mr. Dave Bartz, Schwabe
Ms. Susan Mulholland (Wacker)

October 2, 1998

Northwest Environmental Defense Center
10015 S.W. Terwilliger Blvd.
Portland, OR 97219

Department of Environmental Quality
Attn: Brian Finneran
811 S.W. 6th Ave.
Portland, OR 97204

Re: **Public Comment on proposed rulemaking** – PSD and PM10 nonattainment

Dear Mr. Finneran:

The goal of the Northwest Environmental Defense Center (NEDC) is to protect both human and environmental welfare. In accordance with this purpose, NEDC's policy is to promote the strictest standards possible to further these goals. In the memorandum, "Rulemaking Proposal and Rulemaking Statements – New Source Review/Prevention of Significant Deterioration Rule Amendments and Miscellaneous Revisions Associated with Revocation of the Pre-existing PM10 Standard, as an amendment to Oregon Clean Air Act State Implementation Plan," sent by DEQ to the interested and affected public, DEQ states on p. 4 that "[t]his rule is needed to protect health and air quality." Considering the major purpose of the proposed rule, that quote seems more like a mantra than a true objective. If DEQ truly wishes to reach the purpose stated on p. 4, its policy regarding air quality standards should be similar to NEDC's (strive for the strictest standards possible).

More specifically, NEDC has some concerns with this rulemaking proposal. First, the revocation of the Klamath Falls, Lakeview, La Grande and Grants Pass PM10 nonattainment areas is justified on the grounds that these areas have been in compliance with PM10 standards. Such compliance is great. However, revoking the nonattainment designation does not mean that the area is more clean. Rather, revoking the nonattainment designation weakens the requirements for pollution control technology, increases the threshold that is required to designate a source "major," eliminates offset requirements, etc. Additionally, this proposed rulemaking would eliminate the contingency requirements in Division 21 of Chapter 340 of the Oregon Administrative Rules. While these results may be encouraged by the structure of federal programs, they seem to be a most strange goal for an Oregon agency which has stated that this rulemaking "is needed to protect health and air quality." DEQ has pointed out that the new PSD requirements are more stringent than the federal requirements. However, perhaps they are not stringent enough, especially since the revised PM10 standards, under the federal guidelines, more than triples the amount of yearly exceedances allowed.

Second, this rulemaking would eliminate the TSP nonattainment designations for Portland, Eugene-Springfield, and Medford-Ashland. With DEQ's justification that these areas have been complying with the applicable standards, the same concern exists as does with the

revocation of the PM10 nonattainment designations. Additionally, the elimination of TSP nonattainment areas is a step towards eliminating the standard altogether. That there no longer is a federal TSP standard is a limited excuse for revoking the state TSP standard. Oregon should use every tool it has available to stop the problem of air pollution.

Third, DEQ's proposed rule memo fails to mention any justification for a particular addition to OAR 340-028-1940(3). Previously, major sources have been exempt from sections (1), (5), and (6) of that rule. DEQ wishes to add OAR 340-028-2000, visibility impact requirements, to the list of exempted provisions. Why should this be done? What does this have to do with the revocation of the nonattainment designations? How does eliminating visibility impact requirements for major sources protect health and air quality? These are not meant to be rhetorical questions; rather, NEDC wants DEQ to answer these questions before the EQC. NEDC strongly urges DEQ to not include OAR 340-0238-2000 to the list of exempted provisions for major sources. The inclusion of that regulation within the list of exempted provisions would be a step back from protecting air quality.

Sincerely,

Oliver Luby
NEDC Air & Toxins Coordinator

Dana Hupp
NEDC Air & Toxins

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, Washington 98101

October 1, 1998

Reply To
Attn Of: OAQ-107

Brian Finneran
State of Oregon
Department of Environmental Quality
811 S.W. 6th Avenue
Portland, Oregon 97024

Re: EPA Comments on August 10, 1998, Oregon Rulemaking Proposal and Rulemaking Statements

Dear Mr. ~~Finneran~~ Brian:

EPA Region 10 staff have reviewed the August 10, 1998, "Rulemaking Proposal and Rulemaking Statements - New Source Review/Prevention of Significant Deterioration Rule Amendments and Miscellaneous Revisions Associated with Revocation of the Pre-existing PM10 Standard, as an amendment to the Oregon Clean Air Act State Implementation Plan." Enclosed are Region 10's comments on these documents for your hearing record..

Thank you for the opportunity to review and comment on these proposed rule revisions. If you have any questions on our comments, or would like to discuss any of the issues further, please give me a call at (206) 553-4253.

Sincerely,

David C. Bray
Senior Air Pollution Scientist
Office of Air Quality

DB:
Enclosure

cc: Bonnie Thie
Rindy Ramos

f:\user\dbray\orpmrlrv.cmt

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EPA Comments on Rulemaking Proposal and Rulemaking Statements

New Source Review/Prevention of Significant Deterioration Rule Amendments and Miscellaneous Revisions Associated with Revocation of the Pre-existing PM10 Standard

Rulemaking Statements

1. **Page 5, paragraph 1** - EPA did not redesignate the Salem area from an ozone nonattainment area to attainment. Rather, EPA revoked the pre-existing National Ambient Air Quality Standard (NAAQS) for ozone and simultaneously revoked the nonattainment designation made under section 107(d) for the pre-existing ozone NAAQS. EPA did not redesignate the area to attainment with the pre-existing ozone NAAQS or make a new designation of attainment with respect to the new ozone NAAQS. As such, the Salem area currently has no designation at all for ozone under section 107(d).

2. **Page 5, paragraph 2** - It is not EPA's "Interim Implementation Guidance" that allows areas to replace LAER and offset requirements with BACT and PSD increments. The Clean Air Act requires that to happen when an area is redesignated to attainment or when the nonattainment designation is revoked. Unless an area is designated as a nonattainment area under section 107(d), then BACT and PSD increments must apply.

3. **Page 6, paragraph 1** - It should be noted that under federal rules, transportation conformity requirements apply both to nonattainment areas and to maintenance areas.

Proposed Rule Revisions

1. **OAR 340-028-1930** - The addition of the phrase "as identified in OAR 340-031-520" would make this provision inconsistent with the definition of "nonattainment area" (OAR 340-031-500(17)) and the Clean Air Act. Oregon rules correctly define a "nonattainment area" as an area designated by the EPA Administrator under section 107(d) of the Act. Adding a qualifier which requires that the area to also be identified in OAR 340-031-520 makes the Oregon nonattainment area permitting rules less stringent than allowed under the Act. A better approach would be to revise the definition of "nonattainment area" to indicate that it is any area designated by the Administrator or identified in OAR 340-031-520.

2. **OAR 340-028-1940(3)** - The expansion of the exemption to include OAR 340-028-2000 "Visibility Impact" is inconsistent with the requirements of OAR 340-028-2000 itself, specifically OAR 340-028-2000(1)(b). While paragraph (1)(b) exempts the owner or operator of certain proposed sources from having to complete a visibility impact assessment, such sources are not exempted from the substantive requirements of OAR 340-028-2000. Paragraph (1)(b) goes on to state that the Department will itself perform the visibility impact assessment. Therefore, creating such a new exemption in OAR 340-028-1940 is inconsistent with the requirements of the approved Oregon visibility protection plan.

Attachment D

State of Oregon
Department of Environmental Quality

Rulemaking Proposal

New Source Review/Prevention of Significant Deterioration rule amendments, and miscellaneous revisions associated with revocation of the pre-existing PM10 and ozone standards, as a revision to the State Implementation Plan.

Department Response to Public Comment

[Commentor number from Attachment C]

Comment 1: The proposed PSD requirements need to clarify that new major VOC or NOx sources in the Salem area which also emit PM10 would not be required to conduct an air quality analysis. (Commentor 1)

Response: The air quality analysis required under 340-028-1940 (8)(e) is applicable only to impacts in the four former PM10 nonattainment areas identified in 340-028-1940 (8)(a). However, the Department believes it can provide further clarification of this in the proposed rules and has made revisions to 340-028-1940 (8)(b) to indicate that the air quality analysis requirement in (8)(e) would not apply to an any new major VOC or NOx source in the Salem area that also emits PM10.

Comment 2: The proposed PSD requirements should not contain a "source compliance" provision that applies to these former nonattainment areas. (Commentor 1)

Response: The "source compliance" provision requires that an owner who is proposing new or expanding major source be able to show that all of their other major sources in the state are in compliance with applicable emission limits or standards. This provision is also found under the Department New Source Review rules for nonattainment areas 340-028-1930 (2) and maintenance areas 340-028-1935 (2). This requirement was applicable to new and expanding major sources in the areas being addressed by this rulemaking when they were designated nonattainment areas. The Department believes this requirement should continue.

Comment 3: The proposed PSD requirements should clarify that if "offsets" are provided by a PM10 source, no air quality monitoring will be required. (Commentor 1)

Response: The option for providing "offsets" as proposed in 340-028-1940 (8)(f) for the former PM10 nonattainment areas is identical language to that found in the current PSD rules under 340-028-1940 (2)(d). Exempting sources that provide offsets from the air quality monitoring requirements in 340-028-1940 (5) is not consistent with existing rules. The only provisions that exempt a source from these monitoring requirements are the exemption criteria identified in 340-028-1940 (3).

Comment 4: The proposed PSD requirements should clarify that if in the future an air quality analysis is required for major sources in the Salem area, any "offsets" that a source chooses to provide can be at a 1 to 1 ratio. (Commentor 1)

Response: The proposed rules under 340-028-1940 (8)(b) do not require an air quality analysis for Salem ozone. This negates the need for a new or expanding major source to consider the option of offsets. At this time the Department has no plans for requiring this air quality analysis, and therefore believes it would be inappropriate to identify an offset ratio in these rules.

Comment 5: The proposed PSD requirements should clarify that if a PM10 source provides offsets, it is entitled to avoid modeling. (Commentor 1)

Response: The current language in the proposed rules regarding sources that choose to provide offsets is identical to that in the current PSD rules. This language indicates that the Department "may" consider any offsets provided as sufficient to meet the air quality analysis requirement. It does not say "shall". The Department recognizes the desire for more definitive language, but points out that it must evaluate any offsets in terms of whether they fully provide a "net air quality benefit" as required under 340-028-1970 (i.e., will the offsets improve air quality in the same geographical area affected by the new source). The Department believes that while in most cases providing offsets will avoid the need for modeling, there could be cases where modeling would still be needed to demonstrate a net air quality benefit would actually occur.

Comment 6: In conjunction with the proposed elimination of TSP nonattainment area designations, delete two specific TSP rule requirements. (Commentor 1)

Response: At this time the Department is not proposing to revoke any Total Suspended Particulate Standard rule requirements, just the TSP nonattainment designations for Medford-Ashland, Eugene-Springfield, and Portland. In 1987, EPA replaced the TSP standard with the PM10 standard. At that time these communities were TSP nonattainment areas, with Medford-Ashland and Eugene-Springfield becoming PM10 nonattainment areas. When the Department adopted the federal PM10 standard, it retained the TSP standard as a state-only standard. Over the last several years all three of these areas have been well under the TSP standard. The implementation of PM10 control programs in these areas, especially Medford-Ashland and Eugene-Springfield, have had a significant impact on controlling TSP, since PM10 is a major component of TSP. The Department may consider eliminating the TSP standard in future rulemaking.

Comment 7: The Department should provide the highest protection of air quality possible, and therefore should consider not eliminating the PM10 and ozone nonattainment designations for the communities identified in this rulemaking. (Commentor 2)

Response: Recent air monitoring shows that all PM10 nonattainment areas and Salem ozone nonattainment are in compliance with the pre-existing standards. With respect to the old 1-hour ozone standard, the Environmental Protection Agency has already revoked this standard and nonattainment designation for Salem area. This rulemaking would eliminate the nonattainment area designation for Salem at the state level. Ozone monitoring data will be submitted to EPA in the year 2000 to determine compliance with the revised 8-hour standard. With respect to the old PM10 standard, EPA guidance requires all PM10 control measures that resulted in attainment be kept in place in each former nonattainment area. PM2.5 monitoring data will be submitted to EPA starting in the year 2002 to determine compliance with the new standard. The Department believes both the revised ozone and new PM2.5 standard will be more protective of public health than the "old" standards. Furthermore, the Department can see no justification for not removing the nonattainment designation for these areas, which have successfully demonstrated compliance with standards. The Department believes it is important to acknowledge the hard work and effort these communities have made in recent years to meet these standards.

Comment 8: The proposed more stringent PSD requirements may not be stringent enough to protect air quality. (Commentor 2)

Response: The proposed rules are more stringent than federal requirements. They were developed by reviewing each of the current PSD requirements applicable to attainment areas, looking at historical monitoring data, and then evaluating what additional measures would be needed in these PM10 and ozone nonattainment areas to protect air quality and avoid falling back into nonattainment. The Department also looked at previously adopted rules for "maintenance areas" (carbon monoxide and ozone). These were also former nonattainment areas (Portland and Medford) which under prior federal guidance were required to adopt a ten-year plan to avoid falling back into nonattainment. New and expanding major industry in these areas are subject to that same BACT requirement as these proposed rules (i.e., no exemption from BACT as under general PSD). Overall, little industrial growth has been occurring in these areas and is expected in the future. Rather than continue to require emission offsets, the Department believes that a small amount of new PM10 emissions should be allowed for growth. The limit proposed in these amendments is about 75 percent less than the "PSD Increment" for attainment areas.

Comment 9: Eliminating the TSP nonattainment areas is "a step towards eliminating the [TSP] standard altogether". (Commentor)

Response: As indicated above in Comment 6, the Department may consider eliminating the TSP standard in future rulemaking. All remaining TSP monitoring sites in the state are showing levels well below the TSP standard. This can be attributed in large part to the successful implementation of PM10 control programs throughout the state, given that PM10 is a major component of TSP.

Comment 10: The proposed cross-reference to the Department's definition of a "nonattainment area" in Division 31 rules needs to indicate that the EPA Administrator also designates areas as nonattainment. (Commentor 3)

Response: The Department inserted language in the NSR rules for nonattainment areas (340-028-1930) that cross-referenced the designated nonattainment areas identified in 340-031-0520. However, this cross-reference is not consistent with 340-031-0500 (17), which defines a "nonattainment area" as an area, which is designated by the EPA Administrator. Since adding this cross-reference was for clarification purposes and not essential, the Department has removed it and reinserted the original language.

Comment 11: Eliminate the cross-reference in the PSD rule to the visibility impact analysis rule that allows an exemption to this requirement. (Commentors 2 and 3)

Response: Under the Department's visibility impact rules in 340-028-2000 (1)(b), sources that meet the criteria for exemption under 340-028-1940 (3) of the general PSD rules are not required conduct a visibility impact assessment. As part of these proposed PSD amendments, the Department added language that cross-referenced the visibility impact rules. However, this cross-reference inadvertently exempted sources from certain applicable provisions in 340-028-2000. Since adding this cross-reference was for clarification purposes and not essential, the Department has removed it and reinserted the original language.

Attachment E

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal
for
New Source Review/Prevention of Significant Deterioration rule amendments, and miscellaneous revisions associated with revocation of the pre-existing PM10 and ozone standards, as a revision to the State Implementation Plan.

Detailed Changes in Response to Comment

The following detailed changes were made in response to public comment, as described in Attachment D.

Comment 1 The proposed PSD requirements need to clarify that new major VOC or NOx sources in the Salem area which also emit PM10 would not be required to conduct an air quality analysis.

> ***Change:*** The Department made the following revisions to 340-028-1940 (8)(b) to indicate that the air quality analysis requirement in (8)(e) would not apply to an any new major VOC or NOx source in the Salem area that also emits PM10.
>
> *[proposed rule language, with (b) changed as follows]*
>
> (8) Additional Requirements In Special Areas:
>
> (b) In addition to the other requirements of this rule, proposed major sources and major modifications that would emit VOC or NO_x in excess of the significant emission rate in the Salem SKATS area, as defined in OAR 340-031-500, shall meet the requirements in subsections (c), (d), and (g) of this section. With respect to ozone formation in the Salem SKATS, these sources are exempt from section (2) of this rule.

Comment 10 The proposed cross-reference to the Department's definition of a "nonattainment area" in Division 31 rules needs to indicate that the EPA Administrator also designates areas as nonattainment.

> ***Change:*** Since adding this cross-reference was for clarification purposes and not essential, the Department has removed it and reinserted the original language.

[original rule language, with reference to 340-031-530 deleted]

340-028-1930
Requirements for Sources in Nonattainment Areas

Proposed major sources and major modifications that would emit a nonattainment pollutant within a designated nonattainment area, including VOC or NO_x in a designated Ozone Nonattainment Area, or a specified pollutant in any area listed in section (8) of this rule must meet the requirements listed below:

Comment 11 Eliminate the cross-reference in the PSD rule to the visibility impact analysis rule that allows an exemption to this requirement.

Change: Since adding this cross-reference was for clarification purposes and not essential, the Department has removed it and reinserted the original language.

[proposed rule language, with reference to 340-028-2000 deleted]

(3) Exemption for Sources Not Significantly Impacting or Contributing to Levels in Excess of Air Quality Standards or PSD Increment Levels. Except as provided in section 8, ~~A~~ a proposed major source or major modification is exempt from sections (1), (5) and (6) of this rule if subsections (a) and (b) of this section are satisfied:

Attachment F

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal
for
New Source Review/Prevention of Significant Deterioration rule amendments,
and miscellaneous revisions associated with revocation of the pre-existing
PM10 and ozone standards, as a revision to the State Implementation Plan.

Rule Implementation Plan

Summary of the Proposed Rule

Proposed rules which would replace the stringent industrial control and offset requirements that currently apply in five former nonattainment areas with less stringent Prevention of Significant Deterioration (PSD) requirements. However, instead of proposing the same PSD requirements as apply to "attainment" areas, two more stringent PSD requirements for four former PM10 (particulate matter less than 10 microns in size) nonattainment areas and one more stringent PSD requirement for the former Salem ozone nonattainment area have been proposed. This rulemaking also contains various amendments associated with revocation of the PM10 standard, and includes eliminating the state Total Suspended Particulate (TSP) nonattainment area designation for the three remaining TSP nonattainment areas in Oregon.

Proposed Effective Date of the Rule

Most of these proposed rules will become effective upon filing with the Secretary of State following adoption at December 11, 1998 EQC Meeting. The portion involving revocation of the pre-existing PM10 standard and associated PM10 nonattainment area designations will become effective upon final notice in the Federal Register.

Proposal for Notification of Affected Persons

New major PM10, VOC and NOx sources, as well as existing sources considering major modifications, will be informed of these PSD rule amendments as part of the Department's on-going New Source Review Program.

Proposed Implementing Actions

PSD permit applications for new or expanding major sources in the areas affected by this rulemaking will be processed in the same manner as those in other areas of the state.

Proposed Training/Assistance Actions

DEQ Headquarters staff will provide all DEQ Regional Offices with copies of these PSD rule amendments. In addition, regional staff permit writers will be provided with a summary document of the key changes made to the PSD rules, and will be briefed on this rulemaking at the first inspectors training meeting following the December rule adoption.

Brian Finneran
11

LC 1026
340-07
Rough Draft
11/13/98 (JH/ps)

D R A F T

SUMMARY

Changes references to field burning to open field burning for consistency. Defines agricultural open burning and establishes limit of Department of Environmental Quality authority over agricultural open burning.

A BILL FOR AN ACT

Relating to applicability of air pollution controls to open burning; amending ORS 307.400, 468A.020, 468A.135, 468A.550, 468A.560, 468A.570, 468A.575, 468A.585, 468A.590, 468A.605, 468A.610, 468A.615 and 468A.620.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 468A.020 is amended to read:

468A.020. [*(1)*] Except as provided in this section and in ORS 476.380 and 478.960, the air pollution laws contained in ORS chapters 468, 468A and 468B do not apply to:

[*(a)*] **(1)** Agricultural operations and the growing or harvesting of crops and the raising of fowls or animals, except **as follows:**

(a) Open field burning [*which*] **and agricultural open burning, as those terms are defined in ORS 468A.550, in Multnomah, Washington, Clackamas, Marion, Polk, Yamhill, Linn, Benton and Lane counties** shall be subject to regulation pursuant to ORS 468.140, 468.150, 468A.555 to 468A.620 and 468A.992 and this section; **and**

(b) All agricultural open burning conducted in this state shall meet the same general requirements and prohibitions as other types of open burning, related to promoting safe and efficient burning, to the burning of prohibited material or to burning under declared poor air quality conditions, in accordance with rules adopted by the Environmental

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

Quality Commission;

[*(b)*] **(2)** Use of equipment in agricultural operations in the growth of crops or the raising of fowls or animals, except **open** field burning**,** which shall be subject to regulation pursuant to ORS 468.140, 468.150, 468A.555 to 468A.620 and 468A.992 and this section;

[*(c)*] **(3)** Barbecue equipment used in connection with any residence;

[*(d)*] **(4)** Agricultural land clearing operations or land grading;

[*(e)*] **(5)** Heating equipment in or used in connection with residences used exclusively as dwellings for not more than four families, except woodstoves which shall be subject to regulation under this section[,] **and** ORS 468A.460 to 468A.480, 468A.490 and 468A.515;

[*(f)*] **(6)** Fires set or permitted by any public agency when such fire is set or permitted in the performance of its official duty for the purpose of weed abatement, prevention or elimination of a fire hazard, or instruction of employees in the methods of fire fighting, which in the opinion of the agency is necessary;

[*(g)*] **(7)** Fires set pursuant to permit for the purpose of instruction of employees of private industrial concerns in methods of fire fighting, or for civil defense instruction; [*or*]

[*(h)*] **(8)** The propagation and raising of nursery stock, except boilers used in connection with the propagation and raising of nursery stock[.]**; or**

[*(i)*] **(9)** The propane flaming of mint stubble.

[*(2) As used in subsection (1) of this section, " field burning" does not include propane flaming of mint stubble.*]

SECTION 2. ORS 468A.135 is amended to read:

468A.135. (1) When authorized to do so by the Environmental Quality Commission, a regional authority formed under ORS 468A.105 shall exercise the functions relating to air pollution control vested in the commission and the Department of Environmental Quality by ORS 468.020, 468.035, 468.065, 468.070, 468.090, 468.095, 468.120, 468.140, 468A.025, 468A.040, 468A.050, 468A.055, 468A.065, 468A.070 and 468A.700 to 468A.755 insofar as such func-

tions are applicable to the conditions and situations of the territory within the regional authority. The regional authority shall carry out these functions in the manner provided for the commission and the department to carry out the same functions. Such functions may be exercised over both incorporated and unincorporated areas within the territory of the regional authority, regardless of whether the governing body of a city within the territory of the region is participating in the regional authority.

(2) No regional authority is authorized to establish or alter areas or to adopt any rule or standard that is less strict than any rule or standard of the commission. The regional authority must submit to the commission for its approval all air quality standards adopted by the regional authority prior to enforcing any such standards.

(3) Subject to ORS 468A.140, 468A.145 and 468A.165, when a regional authority is exercising functions under subsection (1) of this section, the commission and the department shall not exercise the same functions in the same territory. The regional authority's jurisdiction shall be exclusive. The regional authority shall enforce rules and standards of the commission as required to do so by the commission.

(4) The commission and the regional authorities may regulate, limit, control or prohibit by rule all air contamination sources not otherwise exempt within their respective jurisdictions. However, **open** field burning and forestland burning shall be regulated by the commission and fire permit agencies as provided in ORS 468A.555 to 468A.620 and 468A.992, 476.380, 477.505 to 477.562 and 478.960.

SECTION 3. ORS 468A.550 is amended to read:

468A.550. As used in **this section and** ORS 468A.555 to 468A.620 and 468A.992:

(1) "Agricultural open burning" means the open burning of any agricultural waste, which includes any unharvested grass seed fields and excludes open field burning, propane flaming and stack or pile burning of grass and cereal grain crops.

(2) "Open field burning" means burning of any perennial or annual grass seed, cereal grain crop or associated residue in a manner that does not effectively control combustion air and combustion products. "Open field burning" does not include propane flaming of mint stubble.

(3) "Propane flaming" means open burning with the use of a mobile flamer device that meets the following design specifications and uses an auxiliary fuel so that combustion is nearly complete and emissions are significantly reduced:

(a) Flamer nozzles shall not be more than 15 inches apart; and

(b) A heat-deflecting hood that extends a minimum of three feet beyond the last row of nozzles is required.

[*(1)*] **(4)** "Smoke management" means the daily control of the conducting of open field burning to such times and places and in such amounts so as to provide for the escape of smoke and particulate matter therefrom into the atmosphere with minimal intrusion into cities and minimal impact on public health and in such a manner that under existing meteorological conditions a maximum number of acres registered can be burned in a minimum number of days without substantial impairment of air quality.

[*(2)*] **(5)** "Smoke management program" means a plan or system for smoke management. A smoke management program shall include, but not be limited to, provisions for:

(a) Annual inventorying and registering, prior to the burning season, of agricultural fields for open field burning;

(b) Preparation and issuance of open field burning permits by affected governmental agencies;

(c) Gathering and disseminating regional and sectional meteorological conditions on a daily or hourly basis;

(d) Scheduling times, places and amounts of agricultural fields that may be open burned daily or hourly, based on meteorological conditions during the burning season;

(e) Conducting surveillance and gathering and disseminating information

on a daily or more frequent basis;

(f) Effective communications between affected personnel during the burning season; and

(g) Employment of personnel to conduct the program.

[*(3) As used in this section, "open field burning" does not include propane flaming of mint stubble.*]

(6) "Stack or pile burning" means the open burning of bound, baled, collected, gathered, accumulated, piled or stacked straw residue from perennial or annual grass seed or cereal grain crops.

SECTION 4. ORS 468A.560 is amended to read:

468A.560. (1) Except for the fee imposed under ORS 468A.615 (1)(c), the provisions of ORS 468A.550 to 468A.620 and 468A.992 shall apply [*only*] to open field burning, propane flaming [*and*], stack or pile burning of grass seed or cereal grain crop residues **and agricultural open burning classified as fourth priority under ORS 468A.570** on acreage located in the counties specified in ORS 468A.595 (2).

(2) Nothing in this section shall apply to the propane flaming of mint stubble.

SECTION 5. ORS 468A.570 is amended to read:

468A.570. (1) As used in this section:

(a) "Marginal conditions" means atmospheric conditions such that smoke and particulate matter escape into the upper atmosphere with some difficulty but not such that limited additional smoke and particulate matter would constitute a danger to the public health and safety.

(b) "Marginal day" means a day on which marginal conditions exist.

(2) For purposes of ORS 476.380 and 478.960, the Environmental Quality Commission shall classify different types or combinations of atmospheric conditions as marginal conditions and shall specify the extent and types of burning that may be allowed under different combinations of atmospheric conditions. A schedule describing the types and extent of burning to be permitted on each type of marginal day shall be prepared and circulated to all

public agencies responsible for providing information and issuing permits under ORS 476.380 and 478.960. The schedule shall give first priority to the burning of perennial grass seed crops used for grass seed production, second priority to annual grass seed crops used for grass seed production, third priority to grain crop burning, and fourth priority to all other **agricultural open** burning and shall prescribe duration of periods of time during the day when burning is authorized.

(3) In preparing the schedule under subsection (2) of this section, the commission shall provide for the assignment of fourth priority burning by the State Department of Agriculture in accordance with the memorandum of understanding established pursuant to ORS 468A.585.

(4) In preparing the schedule required under subsection (2) of this section, the commission shall weigh the economic consequences of scheduled burnings and the feasibility of alternative actions, and shall consider weather conditions and other factors necessary to protect the public health and welfare.

(5) None of the functions of the commission under this section or under ORS 476.380 or 478.960, as it relates to agricultural burning, shall be performed by any regional air quality control authority established under ORS 468A.105.

SECTION 6. ORS 468A.575 is amended to read:

468A.575. (1) Permits for open **field** burning, propane flaming or stack or pile burning of the residue from perennial grass seed crops, annual grass seed crops and cereal grain crops are required in the counties listed in ORS 468A.595 (2) and shall be issued in accordance with rules adopted by the Environmental Quality Commission and subject to the fee prescribed in ORS 468A.615. The permit described in this section shall be issued in conjunction with permits required under ORS 476.380 or 478.960.

(2) By rule the Environmental Quality Commission may delegate to any county court, board of county commissioners, fire chief of a rural fire protection district or other responsible person the duty to deliver permits to burn acreage if the acreage has been registered under ORS 468A.615 and fees

have been paid as required in ORS 468A.615.

SECTION 7. ORS 468A.585 is amended to read:

468A.585. (1) The Environmental Quality Commission shall enter into a memorandum of understanding with the State Department of Agriculture that provides for the State Department of Agriculture to operate all of the **open** field burning program.

(2) Subject to the terms of the memorandum of understanding required by subsection (1) of this section, the State Department of Agriculture:

(a) May perform any function of the Environmental Quality Commission or the Department of Environmental Quality relating to the operation and enforcement of the **open** field burning smoke management program.

(b) May enter onto and inspect, at any reasonable time, the premises of any person conducting an open field burn to ascertain compliance with a statute, rule, standard or permit condition relating to the **open** field burning smoke management program.

SECTION 8. ORS 468A.590 is amended to read:

468A.590. Pursuant to the memorandum of understanding established under ORS 468A.585, the State Department of Agriculture:

(1) Shall:

(a) Conduct the smoke management program established by rule by the Environmental Quality Commission as it pertains to open field burning, propane flaming and stack or pile burning **and to agricultural open burning that is classified as fourth priority under ORS 468A.570.**

(b) Aid fire districts and permit agents in carrying out their responsibilities for administering field sanitization programs.

(2) May:

(a) Enter into contracts with public and private agencies to carry out the purposes set forth in subsection (1) of this section;

(b) Obtain patents in the name of the State of Oregon and assign such rights therein as the State Department of Agriculture considers appropriate;

(c) Employ personnel to carry out the duties assigned to it; and

(d) Sell and dispose of all surplus property of the State Department of Agriculture related to smoke management, including but not limited to straw-based products produced or manufactured by the State Department of Agriculture.

SECTION 9. ORS 468A.605 is amended to read:

468A.605. The Department of Environmental Quality, in coordinating efforts under ORS 468.140, 468.150, 468A.020, 468A.555 to 468A.620 and 468A.992, shall:

[*(1) Enforce all field burning rules adopted by the Environmental Quality Commission and all related statutes; and*]

(1) Enforce all rules adopted by the Environmental Quality Commission and all related statutes pertaining to open field burning and to agricultural open burning that is classified as fourth priority under ORS 468A.570; and

(2) Monitor and prevent unlawful **open** field burning.

SECTION 10. ORS 468A.610 is amended to read:

468A.610. (1) Except as provided under ORS 468A.620, no person shall **conduct** open [*burn*] **field burning, propane flaming or stack or pile burning** or cause to be [*open burned, propane flamed or stack or pile burned*] **conducted open field burning, propane flaming or stack or pile burning** in the counties specified in ORS 468A.595 (2), **of** perennial or annual grass seed crop or cereal grain crop residue, unless the acreage has been registered under ORS 468A.615 and the permits required by ORS 468A.575, 476.380 and 478.960 have been obtained.

(2) The maximum total registered acreage [*allowed to be*] **subject to** open [*burned*] **field burning** per year pursuant to subsection (1) of this section shall be:

(a) For 1991, 180,000 acres.

(b) For 1992 and 1993, 140,000 acres.

(c) For 1994 and 1995, 120,000 acres.

(d) For 1996 and 1997, 100,000 acres.

(e) For 1998 and thereafter, 40,000 acres.

(3) The maximum total acreage allowed to be propane flamed under subsection (1) of this section shall be:

(a) In 1991 through 1997, 75,000 acres per year; and

(b) In 1998 and thereafter, 37,500 acres per year may be propane flamed.

(4)(a) After January 1, 1998, fields shall be prepared for propane flaming by removing all loose straw or vacuuming or prepared using other techniques approved by rule by the Environmental Quality Commission.

(b) After January 1, 1998, propane equipment shall satisfy best available technology.

(5) Notwithstanding the limitations set forth in subsection (2) of this section, in 1991 and thereafter, a maximum of 25,000 acres of steep terrain and species identified by the Director of Agriculture by rule may be **subject to** open [*burned*] **field burning** and shall not be included in the maximum total permitted acreage.

(6) Acreage registered [*to be*] **for** open [*burned*] **field burning** under this section may be propane flamed at the registrant's discretion without reregistering the acreage.

(7) In the event of the registration of more than the maximum allowable acres for open **field** burning in the counties specified in ORS 468A.595 (2), after 1996, the commission, after consultation with the State Department of Agriculture, by rule or order may assign priority of permits based on soil characteristics, the crop type, terrain or drainage.

(8) Permits shall be issued and burning shall be allowed for the maximum acreage specified in subsection (2) of this section unless:

(a) The daily determination of suitability of meteorological conditions, regional or local air quality conditions or other burning conditions requires that a maximum number of acres not be burned on a given day; or

(b) The commission finds after hearing that other reasonable and economically feasible, environmentally acceptable alternatives to the practice of annual open field burning have been developed.

(9) Upon a finding of extreme danger to public health or safety, the commission may order temporary emergency cessation of all open field burning, propane flaming or stack or pile burning in any area of the counties listed in ORS 468A.595 (2).

(10) The commission shall act on any application for a permit under ORS 468A.575 within 60 days of registration and receipt of the fee required under ORS 468A.615. The commission may order emergency cessation of open field burning at any time. Any other decision required under this section must be made by the commission on or before June 1 of each year.

SECTION 11. ORS 468A.615 is amended to read:

468A.615. (1)(a) On or before April 1 of each year, the grower of a grass seed crop shall register with the county court or board of county commissioners, the fire chief of a rural fire protection district, the designated representative of the fire chief or other responsible persons the number of acres to be [*open burned*] **subjected to open field burning** or propane [*flamed*] **flaming** in the remainder of the year. At the time of registration, the Department of Environmental Quality shall collect a nonrefundable fee of $2 per acre registered to be sanitized by open **field** burning or $1 per acre to be sanitized by propane flaming. The department may contract with counties and rural fire protection districts or other responsible persons for the collection of the fees which shall be forwarded to the department. Any person registering after April 1 of each year shall pay an additional fee of $1 per acre registered if the late registration is due to the fault of the late registrant or one under the control of the late registrant. Late registrations must be approved by the department. Copies of the registration form shall be forwarded to the department. The required registration must be made and the fee paid before a permit shall be issued under ORS 468A.575.

(b) Except as provided in paragraph (d) of this subsection, the department shall collect a fee in accordance with paragraph (c) of this subsection for issuing a permit for open **field** burning, propane flaming or stack or pile burning of perennial or annual grass seed crop or cereal grain crop residue

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under ORS 468A.555 to 468A.620 and 468A.992. The department may contract with counties and rural fire protection districts or other responsible persons for the collection of the fees which shall be forwarded to the department.

(c) The fee required under paragraph (b) of this subsection shall be paid within 10 days after a permit is issued and shall be:

(A) $8 per acre of crop sanitized by open **field** burning in the counties specified in ORS 468A.595 (2);

(B) $4 per acre of perennial or annual grass seed crop sanitized by open burning in any county not specified in ORS 468A.595 (2);

(C) $2 per acre of crop sanitized by propane flaming;

(D) For acreage from which 100 percent of the straw is removed and burned in stacks or piles:

(i) $2 per acre from January 1, 1992, to December 31, 1997;

(ii) $4 per acre in 1998;

(iii) $6 per acre in 1999;

(iv) $8 per acre in 2000; and

(v) $10 per acre in 2001 and thereafter; and

(E) For acreage from which less than 100 percent of the straw is removed and burned in stacks or piles, the same per acre as the fee imposed under subparagraph (D) of this paragraph, but with a reduction in the amount of acreage for which the fee is charged by the same percentage as the reduction in the amount of straw to be burned.

(d) The fee required by paragraph (b) of this subsection shall not be charged for any acreage where efficient burning of stubble is accomplished with equipment certified by the department for field sanitizing purposes or with any other certified alternative method to open field burning, propane flaming or stack or pile burning. The fee required by paragraph (b) of this subsection shall not be charged for any acreage not harvested prior to burning or for any acreage not burned.

(2) All fees collected under this section shall be deposited in the State Treasury to the credit of the Department of Agriculture Service Fund. Such

moneys are continuously appropriated to the State Department of Agriculture for the purpose of carrying out the duties and responsibilities carried out by the State Department of Agriculture pursuant to the memorandum of understanding established under ORS 468A.585.

(3) It is the intention of the Legislative Assembly that the programs for smoke management, air quality monitoring and the enforcement of rules under ORS 468A.550 to 468A.620 and 468A.992 be operated in a manner that maximizes the resources available for the research and development program. Therefore, with regard to the disbursement of funds collected under subsection (1) of this section, the State Department of Agriculture shall act in accordance with the intent of the Legislative Assembly and shall:

(a) Pay an amount to the county or board of county commissioners or the fire chief of the rural fire protection district or other responsible person, for each fire protection district, $1 per acre registered for each of the first 5,000 acres registered for open field burning and propane flaming in the district, 75 cents per acre registered for each of the second 5,000 acres registered in the district and 35 cents per acre registered for all acreage registered in the district in excess of 10,000 acres, to cover the cost of and to be used solely for the purpose of administering the program of registration of acreage to be burned, issuance of permits, keeping of records and other matters directly related to agricultural **open** field burning. For each acre from which straw is removed and burned in stacks or piles, the State Department of Agriculture shall pay to the county or board of county commissioners, or the fire chief of the rural fire protection district or other responsible person, 25 cents per acre.

(b) Designate an amount to be used for the smoke management program. The State Department of Agriculture by contract with the Oregon Seed Council or otherwise shall organize rural fire protection districts and growers, coordinate and provide communications, hire ground support personnel, provide aircraft surveillance and provide such added support services as are necessary.

(c) Retain funds for the operation and maintenance of the Willamette Valley **open** field burning air quality impact monitoring network and to insure adequate enforcement of rules established by the Environmental Quality Commission governing standards of practice for open field burning, propane flaming and stack or pile burning.

(d) Of the remaining funds, designate an amount to be used for additional funding for research and development proposals described in the plan developed pursuant to section 15, chapter 920, Oregon Laws 1991.

SECTION 12. ORS 468A.620 is amended to read:

468A.620. (1) Notwithstanding the provisions of ORS 468A.610, for the purpose of improving by demonstration or investigation the environmental or agronomic effects of alternative methods of field sanitization, the Environmental Quality Commission shall by rule allow experimental field sanitization under the direction of the Department of Environmental Quality for up to 1,000 acres of perennial grass seed crops, annual grass seed crops and grain crops in such areas and for such periods of time as it considers necessary. Experimental field sanitization includes but is not limited to:

(a) Development, demonstration or training personnel in the use of special or unusual field ignition techniques or methodologies.

(b) Setting aside times, days or areas for special studies.

(c) Operation of experimental mobile field sanitizers and improved propane flaming devices.

(d) Improved methods of stack or pile burning.

(2) The commission may allow open **field** burning under this section of acreage for which permits have not been issued under ORS 468A.610 if the commission finds that the experimental burning:

(a) Can, in theory, reduce the adverse effects on air quality or public health from open field burning; and

(b) Is necessary in order to obtain information on air quality, public health or the agronomic effects of an experimental form of field sanitization.

(3) The commission may, by rule, establish fees, registration requirements

and other requirements or limitations necessary to carry out the provisions of this section.

SECTION 13. ORS 307.400 is amended to read:

307.400. (1) Livestock, poultry, fur-bearing animals and bees are exempt from ad valorem taxation.

(2) All inventory shall be exempt from ad valorem taxation.

(3) As used in subsection (2) of this section, "inventory" means the following tangible personal property:

(a) Farm machinery and equipment used primarily in the preparation of land, planting, raising, cultivating, irrigating, harvesting or placing in storage of farm crops; or

(b) Farm machinery and equipment used primarily for the purpose of feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or bees or for dairying and the sale of dairy products; or

(c) Farm machinery and equipment used primarily in any other agricultural or horticultural use or animal husbandry or any combination thereof; or

(d) Items of tangible personal property, including but not limited to, tools, machinery and equipment, owned by or in the possession or under the control of the taxpayer that are used by the taxpayer predominantly in the construction, reconstruction, maintenance, repair, support or operation of that farm machinery, equipment and other real and personal farm improvements, that are:

(A) Owned by or in the possession or under the control of the taxpayer; and

(B) Used primarily in the animal husbandry, agricultural or horticultural activities, or combination of animal husbandry, agricultural or horticultural activities, carried on by the taxpayer; or

(e) Center pivots, wheel lines, movable set lines; or

(f) Items of tangible personal property described as materials, supplies,

containers, goods in process, finished goods and other personal property owned by or in possession of the taxpayer, that are or will become part of the stock in trade of the taxpayer held for sale in the ordinary course of business.

(4) As used in this section:

(a) "Center pivot" means a piece of self-propelled machinery that rotates around a riser for the purpose of sprinkling a circular tract of land. "Center pivot" includes all of the component parts of the center pivot irrigation system that are ordinarily located above the ground on the land to be irrigated and that can be disconnected from the riser and moved to another point. A center pivot constitutes personal property.

(b) "Center pivot irrigation system" means an irrigation system that uses pumping stations and pipelines to convey water from its source to a riser to which a center pivot may be connected and used for sprinkling.

(c) "Riser" means a pipe located in the field to be irrigated that rises vertically up through the surface of the ground.

(5) The following are exempt from ad valorem taxation:

(a) Frost control systems used in agricultural or horticultural activities carried on by the farmer.

(b) Trellises used for hops, beans or fruit or for other agricultural or horticultural purposes.

(c) Hop harvesting equipment, including but not limited to, hop pickers.

(d) Oyster racks, trays, stakes and other in-water structures used to raise bivalve mollusks.

(e) Equipment used for the fresh shell egg industry that is directly related and reasonably necessary to produce, prepare, package and ship fresh shell eggs from the place of origin to market, whether bolted to the floor, wired or plumbed to interconnected equipment, including, but not limited to, grain bins, conveyors for transporting grain, grain grinding machinery, feed storage hoppers, cages, egg collection conveyors and equipment for washing, drying, candling, grading, packaging and shipping fresh shell eggs.

(6) There shall be exempt from ad valorem taxation the radio communications equipment, meteorological equipment and other personal property used in connection with the operation of the **open** field burning smoke management program established under ORS 468A.555 to 468A.620 and 468A.992.

11/18/98 14:48 503 373 1043 LEG. COUNSEL COM →→→ D.E.Q. - OD/PA 007

State of Oregon
Department of Environmental Quality Memorandum

Date: November 19, 1998

To: Environmental Quality Commission

From: Langdon Marsh

Subject: Agenda Item **G**, EQC Meeting December 11, 1998

Background

On August 13, 1998, the Director authorized the Water Quality Division to proceed to a rulemaking hearing on proposed rules which would raise fees for on-site sewage disposal activities.

Pursuant to the authorization, hearing notice was published in the Secretary of State's Bulletin on September 1, 1998. The Hearing Notice and informational materials were 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 August 19, 1998, and again on October 13, 1998.

Public Hearings were held September 16, in La Grande, September 17, in Bend, September 22, in Roseburg, September 23, in Seaside and September 24, in Portland, with Dennis Illingworth serving as Presiding Officer. Written comment was received through October 26th, 1998. The Presiding Officer's Report (Attachment C) summarizes the oral testimony presented at the hearing and lists all the written comments received. (A copy of the comments is available upon request.)

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.

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

Issue this Proposed Rulemaking Action is Intended to Address

The On-site Sewage Disposal Program is 100% fee supported. To provide for permitting services, complaint response, compliance, contract agent oversight, training and rule making, the program must review the fee schedule on a periodic basis for needed adjustments. The Department contracts with 21 counties to provide local administration of the program in 22 counties. DEQ provides direct service in the remaining 14 counties. Contract counties are statutorily prohibited from having higher fees than those adopted by the EQC, unless the EQC has authorized a higher county fee by rule.

In 1994, the Department did an extensive workload analysis of the on-site program. A revised fee schedule was adopted by the EQC in response to this analysis in 1994. Many counties also adjusted their fees accordingly at that time.

During the 1995 legislative session the fee increases were rolled back by action of the legislative assembly. With that rollback the legislature advised the Department that a 5 week turnaround was sufficient for completing site evaluations. From experience, the Department knows that the public will start complaining if they do not receive service within two to three weeks.

Since July 1995, the Department has assessed lowered fees and in 1997 the EQC adopted a revised fee schedule that formally implemented the 1995 legislative reductions. The EQC adoption of the fee schedule put some counties in a situation where they charge fees higher than DEQ.

The above events have resulted in two primary issues necessitating the need to revisit the present fee schedule.

1) *Program Deficit;* The rollback, in combination with the normal increases in the cost of doing business since 1995 has contributed to a budget deficit in the on-site program. If increased fees are adopted, these fees would assist in abating a deficit projected at over $400,000. The proposed fees sent out for public comment and the alternative developed as a result of public comment would place the on-site program within a reasonable expectation of being fully fee supported for the next biennium. Both the proposal sent out for public comment and the recommended alternative would provide revenue for the enhancement package that is presently in the Agency requested budget.

   It is noted that a program deficit may well remain through this biennium. Program shifts have been implemented and are continuing. Discussions involving the deficit and efforts to resolve it have included the concept of higher fees for the last part of the biennium. If increased fees are not available, the deficit may be greater than the $400,000 presently projected.

   The On-site program has made every effort through this time to provide service at levels the legislature intended. However, this has not always been possible due to the program shifts necessitated by the program deficit.

Site evaluation turnaround times had increased to 8 weeks in some DEQ offices during this summer and to continue with providing even reduced service levels the program has had to re-prioritize activities. This has resulted in many complaints not being investigated in a timely manner and variance requests (requesting a variance from most on-site rules is statutorily allowed) and denial reviews being delayed four to six months or more.

2) *Contract County Fees;* The legislative rollback and subsequent adoption of lower fees by the EQC has placed counties which adopted higher fees after April 1995 in possible violation of ORS 454, which requires that fees cannot be higher than those set by the EQC. The proposed fee schedules would cover those counties. Also, DEQ has a legislative proposal to eliminate the restriction in ORS 454 so that counties can set on-site fees at levels they need to cover the cost of running the program.

Relationship to Federal and Adjacent State Rules

DEQ is accountable for the operation of the On-Site Sewage Disposal Program. There is no direct relationship to federal rules. An indirect relationship exists with the Coastal Zone Management Act, the Safe Drinking Water Act, and the Underground Injection Control (UIC) rules written to implement portions of the Clean Water Act. These Federal regulations are concerned with non-point pollution, groundwater and surface water protection. There is no obligation for coordination of Oregon's on-site fee levels with adjacent states.

Authority to Address the Issue

The statutory authority to address this issue is ORS 454.745

Process for Development of the Rulemaking Proposal (including Advisory Committee and Alternatives considered)

The proposed fee schedule was developed from the 1994 workload analysis indicating time needed to process applications, staffing levels, field services data concerning past applications received, and by reviewing budget needs with input from the Department's Rule Advisory Committee (members are listed in Attachment F).

A draft rule was reviewed and discussed by the Rules Advisory Committee. Alternatives and projected service adjustments were also discussed with the Advisory Committee. The committee expressed consensus and support for the DEQ to develop a fee schedule that would fund acceptable minimum program service delivery levels compliance and enforcement activities that are currently underfunded.

Fee proposals are also presented to the Department of Administrative Services (DAS) for their review. DAS has questioned any "new" fee as being allowed under ORS 454.
Due to limited Department resources for researching DAS concerns at this time, staff has removed two fees from the proposal that DAS considered "new" fees. These fees were a plan review fee and an innovative technology review fee, although both these unfunded activities consume considerable staff time which must be covered by whatever fees are adopted.

Summary of Rulemaking Proposal Presented for Public Hearing and Discussion of Significant Issues Involved.

The proposed fee schedule that went out for public review used the EQC adopted April 1995 fees as a base and then added inflation through the year 2000, with individual adjustments made including "license" fees and the "second lot" evaluation fee as recommended by the Rules Advisory Committee.

The committee intended the license fee increases to provide for compliance relating to sewage disposal service activities, whether or not they were performed by license holders. These compliance efforts would focus on illicit installations of systems, improper pumping and disposal of septage and other liquid wastes and the use of materials not approved that could create damage to a system in the long term.

The fee for all lot evaluations is proposed to be the same because the Department has experienced and the Advisory Committee agreed, that the occasional reduction of travel time to conduct the evaluation does not justify the reduced fee for the work. Many times additional travel to the site is required due to the time necessary to evaluate a number of lots.

Other adjustments include:

- A permit reinstatement fee. At present the Department only allows a reduced fee if a permit is renewed by the original owner, before the expiration date. This change would establish a reduced fee for renewal or reinstatement, even if the permit has expired. If no changes are suggested in the development proposal, limited review is necessary.

- A reduced fee for transferring a permit. At present, an applicant wishing to transfer a permit to another person is prohibited from doing so. Many times a transfer of property is undertaken with no intent to change the development proposal. The work necessary for this type of review is limited and the applicant should not pay a full permit fee.

Further rulemaking will be necessary to implement these activities.

Summary of Significant Public Comment and Changes Proposed in Response

The comment period was extended to October 26, 1998, from the original end date of September 30th. The Department has received three verbal comments at public hearings and 21 written comments through the public comment time.

Of these 24 commentors, five were generally supportive of the increase, (four of these were from Contract County Agents and one from a licensed installer), although the Contract Agents are questioning the surcharges DEQ assesses on all permitting activities, and where the surcharge money is spent. The remainder of the commentors were opposed to any fee increases. Many of these comments express opposition to fee increases. The following lists specific issues raised. The Department evaluation of these significant comments is in Attachment D.

- Many affected persons did not know of the proposal.
- The proposed fees are too high.
- The license fees are being raised too high and will put people out of business that only install a few systems a year.
- Fees are lower in other states.
- Private contractors could do the work for less.
- Questions as to what services will be provided by the surcharge assessed on permitting activities.
- Higher fees will result in more illegal system installation.
- Questions as to why DEQ needs higher fees than the Contract Agents.
- Questions if there will be any improved service from the higher fees.

In response to these comments, the Department has modified the proposal that went to public hearing. The specific adjustments made are outlined in Attachment E. In summary the modified proposal would still be an increase over present fees. However, the increase would be reduced somewhat from the original proposal for standard system permits, alternative system permits (sand filters etc.), repairs and other activity fees, while maintaining the original proposed fees for site evaluations, surcharges, report reviews and licensing. The Department believes the program can be adequately funded for the present with these modifications, but with a smaller reserve in case revenues do not come in as expected. It is important to note that revenues are projected from anticipated services which will be requested in the future, i.e. number of houses being built, number of repairs to systems, etc.

The Department has made conservative projections of workload to be safe, but believes it prudent to build in a reserve to avoid similar service cuts like in this biennium.

Summary of How the Proposed Rule Will Work and How it Will be Implemented

If the proposed rule amendments are adopted by the EQC, the revised fee schedule will replace the current fee schedule used by all of the DEQ offices that accept applications for on-site activities. Department staff are at present accepting fees from the public, therefore no internal procedural change is needed for this purpose. The Department plans to notify newspapers, local installers and pumpers of the changes before the effective date. There will be notices posted and handouts available at DEQ offices for a period of time before the fees become effective. The proposed implementation date is February 1, 1999.

Recommendation for Commission Action

It is recommended that the Commission adopt the rule amendments, (OAR 340-71-140) regarding on-site fee activities as presented in Attachment A of the Department Staff Report, with an effective date of February 1, 1999.

Attachments

A. Rule (Amendments) Proposed for Adoption
B. Supporting Procedural Documentation:
    1. Legal Notice of Hearing
    2. Fiscal and Economic Impact Statement
    3. Land Use Evaluation Statement
    4. Questions to be Answered to Reveal Potential Justification for Differing from Federal Requirements
    5. Cover Memorandum from Public Notice
C. Presiding Officer's Report on Public Hearing
D. Department's Evaluation of Public Comment
E. Detailed Changes to Original Rulemaking Proposal made in Response to Public Comment
F. Advisory Committee Membership and Report
G. Rule Implementation Plan
H. (Other Attachments as appropriate)

Reference Documents (available upon request)

Written Comments Received (listed in Attachment C)
(Other Documents supporting rule development process or proposal)

Approved:

Section:

Division:

Report Prepared By: Dennis Illingworth

Phone: 503-229-5189

Date Prepared: November 4, 1998

Proposed On-site Fees

Attachment A

340-71-0140 FEES - GENERAL

(1) Except as provided in section (5) of this rule, the following non-refundable fees are required to accompany applications for site evaluations, permits, licenses and services provided by the Department.

ON-SITE SEWAGE DISPOSAL SYSTEMS	MAXIMUM FEE

(a) New Site Evaluation:

(A) Single Family Dwelling:

(i) First Lot..... ~~[$335]~~ **$450**;

(ii) Each Additional Lot Evaluated During Initial Visit.... ~~[$205]~~ **$450**;

(B) Commercial Facility System:

(i) For First One Thousand (1,000) Gallons Projected Daily Sewage Flow ..... ~~[$335]~~ **$450**;

(ii) For systems with projected sewage flows greater than one thousand (1,000) gallons but not more than 5,000 gallons, the site evaluation application fee shall be ~~[$335]~~ **$450** plus an additional ~~[$90]~~ **$110** for each 500 gallons or part thereof above 1,000 gallons.

(C) Site Evaluation Report Review..... ~~[$290]~~ **$400**;

(D) Fees for site evaluation applications made to an agreement county shall be in accordance with that county's fee schedule;

(E) Each fee paid for a site evaluation report entitles the applicant to as many site inspections on a single parcel or lot as are necessary to determine site suitability for a single system. The applicant may request additional site inspections within ninety (90) days of the initial site evaluation, at no extra cost;

(F) Separate fees shall be required if site inspections are to determine site suitability for more than one (1) system on a single parcel of land.

(b) Construction-Installation Permit:

(A) For First One Thousand (1,000) Gallons Projected Daily Sewage Flow:

(i) Standard On-Site System..... ~~[$460]~~ **$630**;

(ii) Alternative System:

(I) Aerobic System..... ~~[$460]~~ **$630**;

(II) Capping Fill..... ~~[$710]~~ **$950**;

(III) Cesspool..... ~~[$460]~~ **$630**;

(IV) Disposal Trenches in Saprolite..... ~~[$460]~~ **$630**;

(V) Evapotranspiration-Absorption..... ~~[$460]~~ **$630**;

(VI) Gray Water Waste Disposal Sump..... ~~[$200]~~ **$280**;

(VII) Pressure Distribution..... ~~[$690]~~ **$950**;

(VIII) Redundant..... ~~[$460]~~ **$630**;

(IX) Sand Filter..... ~~[$880]~~ **$1200**;

(X) Seepage Pit..... ~~[$460]~~ **$630**;

(XI) Seepage Trench..... ~~[$460]~~ **$630**;

(XII) Steep Slope..... ~~[$460]~~ **$630**;

(XIII) Tile Dewatering..... ~~[$690]~~ **$950**;

(iii) At the discretion of the Agent, the permittee may be assessed a reinspection fee, not to exceed ~~[$140]~~ **$225**, when a precover inspection correction notice requires correction of improper construction and, at a subsequent inspection, the Agent finds system construction deficiencies have not been corrected. The Agent may elect not to make further precover inspections until the reinspection fee is paid;

(iv) With the exceptions of sand filter and pressure distribution systems, a ~~[$25]~~ **$30** fee may be added to all permits that specify the use of a pump or dosing siphon.

(B) For systems with projected daily sewage flows greater than one thousand (1,000) gallons, the Construction-Installation permit fee shall be equal to the fee required in paragraph (1)(b)(A) of this rule plus ~~[$40]~~ **$55** for each five hundred (500) gallons or part thereof above one thousand (1,000) gallons;

NOTE: Fees for construction permits for systems with projected daily sewage flows greater than two thousand five hundred (2,500) gallons shall be in accordance with the fee schedule for WPCF permits.

(C) Commercial Facility System, Plan Review:

(i) For a system with a projected daily sewage flow of less than six hundred (600) gallons, the cost of plan review is included in the permit application fee;

(ii) For a system with a projected daily sewage flow of six hundred (600) gallons, but not more than one thousand (1,000) gallons projected daily sewage flow..... ~~[$165]~~ **$220**;

(iii) For a system with a projected sewage flow greater than 1,000 gallons, the plan review fee shall be ~~[$165]~~ **$220**, plus an additional ~~[$25]~~ **$30** for each five hundred (500) gallons or part thereof above one thousand (1,000) gallons, to a maximum sewage flow limit of two thousand five hundred (2,500) gallons per day;

(D) Permit **Transfer, Reinstatement or** Renewal:

(i) If Field Visit Required..... ~~[$240]~~ **$325**;

(ii) No Field Visit Required..... ~~[$85]~~ **$95**;

~~[NOTE: Renewal of a permit may be granted to the original permittee if an application for permit renewal is filed prior to the original permit expiration date. Refer to OAR 340-71-160(10).]~~

(E) Alteration Permit..... ~~[$450]~~ **$620**;

(F) Repair Permit:

(i) Single Family Dwelling:

(I) Major..... ~~[$245]~~ **$345**;

(II) Minor..... ~~[$125]~~ **$165**.

(ii) Commercial Facility:

(I) Major — The appropriate fees identified in paragraphs (1)(b)(A), (B), and (C) of this rule apply;

(II) Minor..... ~~[$200]~~ **$290**.

(G) Permit Denial Review..... ~~[$290]~~ **$400**.

(c) Authorization Notice:

(A) If Field Visit Required..... ~~[$280]~~ **$390**;

(B) No Field Visit Required..... ~~[$90]~~ **$100**;

(C) Authorization Notice Denial Review..... ~~[$290]~~ **$400**;

(d) Annual Evaluation of Alternative System (Where Required)..... ~~[$235]~~ **$310**;

(e) Evaluation of Temporary or Hardship Mobile Home..... ~~[$235]~~ **$330**;

(f) Variance to On-Site System Rules..... $225;

NOTE: The variance application fee may be waived if the applicant meets the requirements of OAR 340-71-0415(5).

(g) Rural Area Variance to Standard Subsurface Rules:
(A) Site Evaluation..... ~~[$335]~~ **$450**;

NOTE: In the event there is on file a site evaluation report for that parcel that is less than ninety (90) days old, the site evaluation fee shall be waived.

(B) Construction-Installation Permit — The appropriate fee identified in subsection (1)(b) of this rule applies.

(h) Sewage Disposal Service:

(A) New Business License..... ~~[$260]~~ **$800**;

(B) Renewal of Existing and Valid Business License..... ~~[$190]~~ **$400**;

(C) Transfer of or Amendments to License..... ~~[$135]~~ **$200**;

(D) Reinstatement of Suspended License..... ~~[$160]~~ **$250**;

(E) Pumper Truck Inspection, First Vehicle:

(i) Each Inspection..... ~~[$80]~~ **$100**;

(ii) Each Additional Vehicle, Each Inspection..... ~~[$45]~~ **$50**;

(i) Experimental Systems: Permit..... ~~[$3,670]~~ **$5,850**;

(j) Existing System Evaluation Report..... ~~[$285]~~ **$400**.
NOTE: The fee shall not be charged for an evaluation report on any proposed repair, alteration or extension of an existing system.

(2) Contract County Fee Schedules. Pursuant to ORS 454.745(4), fee schedules which exceed the maximum fees in ORS 454.745(1) and section (1) of this rule shall be established by rule.

(3) Contract County Fee Schedules, General:

(a) Each county having an agreement with the Department under ORS 454.725 shall adopt a fee schedule for services rendered and permits to be issued. The county fee schedule shall not include the Department's surcharge fee identified in section 4 of this rule;

(b) A copy of the fee schedule and any subsequent amendments to the schedule shall be forwarded to the Department;

(c) Fees shall not:

(A) Exceed actual costs for efficiently conducted services;

(B) Exceed the maximum fee established in section (1) of this rule, unless approved by the Commission pursuant to ORS 454.745(4).

(4) Surcharge. In order to offset a portion of the administrative and program oversight costs of the statewide on-site sewage disposal program, a surcharge of ~~[$30]~~ **$40** for each site evaluated, for each construction installation permit and all other activities for which an application is submitted, shall be levied by the Department and by each Agreement County. Proceeds from surcharges collected by the Department and Agreement Counties shall be accounted for separately. Each Agreement County shall forward the proceeds to the Department as negotiated in the memorandum of agreement (contract) between the county and the Department.

EXCEPTION: The surcharge shall not apply to:
-1- WPCF permit applications for existing holding tanks submitted by September 30, 1998;
-2- Sewage Disposal Service License applications;
-3- Pumper Truck Inspections.

(5) Refunds. The Agent may refund all or a portion of a fee accompanying an application if the applicant withdraws the application before the Agent has done any field work or other substantial review of the application.

(6) Fees for WPCF Permits. The following fee schedule shall apply to WPCF Permits for on-site sewage disposal systems issued pursuant to OAR 340-71-0162:

(a) Application filing fee (all categories)..... $50;

(b) Permit processing fees for sewage lagoons and other on-site disposal systems over 1,200 gpd:

(A) New Applications..... $2,000;

(B) Permit Renewals (including request for effluent limit modifications) $1,000;

(C) Permit Renewal (without request for effluent limit modifications) $500;

(D) Permit modification (involving increase in effluent limits) $1,000;

(E) Permit modification (not involving an increase in effluent limits) $500;

(c) Permit processing fees for on-site systems of 1,200 gpd or less:

(A) New Applications..... $400;

(B) Permit Renewals (involving request for effluent limit modifications $200;

(C) Permit Renewals (without request for effluent limit modifications) $100;

(D) Permit Modifications (involving increase in effluent limitations) $150;

(E) Permit Modifications (not involving an increase in effluent limits) $100;

(d) Registration fee for General Permits..... $150;

(e) Site Evaluation Fee:

(A) Facilities with design flow of 5,000 gpd or less, same as section (1)(a) of this rule;

(B) Facilities with design flow greater than 5,000 gpd $1,200;

(f) Site Evaluation Confirmation Fee $350;

NOTE: A Site Evaluation Confirmation Fee is required if the site evaluation is performed by a qualified consultant but, through the site evaluation review process, a site visit is still required by the Department or Agent.

(g) Plan Review Fee:

(A) Commercial Facilities with design flows less than 5,000 gpd same as paragraph (1)(b)(C) of this rule;

(B) Commercial Facilities with design flows of 5,000 gpd or more $500;

(C) Non-commercial Facilities $100;

NOTE: A plan review fee is required when engineered plans must be reviewed for a facility which requires a WPCF permit.

(h) Annual Compliance Determination Fee:

(A) On-site sewage lagoon with no discharge $600;

(B) On-site subsurface systems with individual WPCF Permit or general permit:

(i) Standard or alternative subsurface system not listed below, with design flow of 20,000 gpd or more $500;

(ii) Standard or alternative subsurface system not listed below with design flow less than 20,000 gpd $250;

(iii) Aerobic systems, 1,500 gpd or more $500;

(iv) Aerobic systems, less than 1,500 ..... $250;

(v) Recirculating Gravel Filter, 1,500 gpd or more $500;

(vi) Recirculating Gravel Filter, less than 1,500 gpd $250;

(vii) Sand Filter, 1,500 gpd or more $500;

(viii) Sand Filter, less than 1,500 gpd $250;

(ix) Holding tanks ..... $200.

NOTE: The annual compliance determination fee (ACDF) is due July of each year. For permits which are issued between July 1 and September 31, the full fee is due before the permit will be issued. For permits issued after September 31, the ACDF will be prorated by calendar quarter.

Stat. Auth.: ORS 454.625 & 468.020
Stats. Implemented: ORS 454.745 & 468.065
Hist.: DEQ 10-1981, f. & ef. 3-20-81; DEQ 19-1981, f. 7-23-81, ef. 7-27-81; DEQ 5-1982, f. & ef. 3-9-82; DEQ 8-1983, f. & ef. 5-25-83; DEQ 15-1986, f. & ef. 8-6-86; DEQ 6-1988, f. & cert. ef. 3-17-88; DEQ 11-1991, f. & cert. ef. 7-3-91; DEQ 18-1994, f. 7-28-94, cert. ef. 8-1-94; DEQ 27-1994, f. & cert. ef. 11-15-94

Secretary of State

NOTICE OF PROPOSED RULEMAKING HEARING

A Statement of Need and Fiscal Impact accompanies this form.

DEQ - WQ Agency and Division	Chapter 340 Administrative Rules Chapter Number
Susan M. Greco Rules Coordinator	(503) 229-5213 Telephone
811 S.W. 6th Avenue, Portland, OR 97213 Address	

HEARING LOCATIONS:

September, 16, 1998	3 p.m.	3012 Island Ave. Room 201 La Grande Oregon	Dennis Illingworth
Hearing Date	Time	Location	Hearings Officer
September 17, 1998	6 p.m.	1130 NW Harriman Bend Oregon	Dennis Illingworth
Hearing Date	Time	Location	Hearings Officer
September 22, 1998	6 p.m.	1134 SE Douglas Ave. Roseburg Oregon	Dennis Illingworth
Hearing Date	Time	Location	Hearings Officer
September 23, 1998	3 p.m.	1225 Avenue A Seaside Oregon	Dennis Illingworth
Hearing Date	Time	Location	Hearings Officer
September 24, 1998	6:30 p.m.	2020 SW 4th Ave., Room 4A Portland Oregon	Dennis Illingworth
Hearing Date	Time	Location	Hearings Officer

Are auxiliary aids for persons with disabilities available upon advance request?
X Yes

RULEMAKING ACTION

AMEND:

340-71-140

Stat. Auth.: ORS 454.745
Stats. Implemented: ORS 454.745

RULE SUMMARY

The Department is proposing rule amendments that would revise the fee schedule currently in OAR Chapter 340, Division 71-140. The revised fee schedule would be effective for all on-site sewage disposal activities, except those that are permitted under a Water a Pollution Control Facility (WPCF) permit. The WPCF permitting fees are not proposed for revision.

The revised fees would apply to site evaluations, construction-installation permits, repair permits, alteration permits and authorization notices and includes revision of the surcharge currently collected by the Department on all county-administered on-site permitting activities. This fee schedule would be in effect for those counties that the Department serves directly. Other counties and contract agents are allowed by statute to charge costs to cover the on-site program up to the fees set by the Environmental Quality Commission (EQC). The contract agents may, therefore, set their own fees in compliance with Oregon Statues, but not higher than the EQC adopted fees.

The proposed fee schedule was developed using a 1994 program cost analysis completed by the Department to support a fee revision approved by the EQC at that time but not approved for implementation by the legislature. The current proposal adds inflation factors through the year 2000. The inflation factor is the Cost of Living Index (CPI) obtained from the State of Oregon Economist. In addition, specific fees were adjusted further as follows:

- The license fee for Sewage Disposal Businesses. The Department's Rule Advisory Committee recommended that this fee be increased to reflect inflation and to support additional compliance efforts and streamlining of the licensing process.

- The fee for the second lot evaluation when more than one lot is requested to be evaluated. The Rules Advisory Committee concurred with Department staff that time saved when doing other lot evaluations at the time of the initial lot is not significant enough to warrant a reduced fee for the additional lots.

- A permit reinstatement and transfer fee. At present the Department only allows a reduced fee if a permit is renewed by the original owner, before the expiration date. This change would allow a reduced fee for renewal even if the permit has expired. The schedule would also allow a reduced fee for transferring a permit, which at present is not allowed. An applicant wishing to transfer a permit to another person at present is required to obtain and pay the full fee for a new permit.

- An Innovative/ Alternative Technology Review fee is proposed to assist in off-setting the costs involved in reviewing and submitting new technologies to the Technical Review Committee. This is often a lengthy process which consumes much staff resource.

- A Material Plan Review fee is proposed, to allow the Department the engineering resource to review plans for approval of materials used in on-site systems.

9/30/98 500pm
Last Day for Public Comment

Authorized Signer and Date 8/13/98

Attachment B2

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal
for
Proposed Adoption of On-Site Sewage Disposal Activity Fees

Fiscal and Economic Impact Statement

Introduction

The Department is proposing rule amendments that would revise the fee schedule currently in OAR Chapter 340, Division 71-140. The revised fee schedule would be effective for all on-site sewage disposal activities, except those that are permitted under a Water Pollution Control Facility (WPCF) permit. The WPCF permitting fees are not proposed for revision.

The revised fees would apply to site evaluations, construction-installation permits, repair permits, alteration permits and authorization notices and includes revision of the surcharge currently collected by the Department on all county-administered on-site permitting activities. This fee schedule would be in effect for those counties that the Department serves directly. Other counties and contract agents are allowed by statute to charge costs to cover the on-site program up to the fees set by the Environmental Quality Commission (EQC). The contract agents may, therefore, set their own fees in compliance with Oregon Statues, but not higher than the EQC adopted fees.

The proposed fee schedule was developed using a 1994 program cost analysis completed by the Department to support a fee revision approved by the EQC at that time but not approved for implementation by the legislature. The current proposal adds inflation factors through the year 2000. The inflation factor is the Cost of Living Index (CPI) obtained from the State of Oregon Economist. In addition, specific fees were adjusted further as follows:

- The license fee for Sewage Disposal Businesses. The Department's Rule Advisory Committee recommended that this fee be increased to reflect inflation and to support additional compliance efforts and streamlining of the licensing process.

- The fee for the second lot evaluation when more than one lot is requested to be evaluated. The Rules Advisory Committee concurred with Department staff that time saved when doing other lot evaluations at the time of the initial lot is not significant enough to warrant a reduced fee for the additional lots.

- A permit reinstatement and transfer fee. At present the Department only allows a reduced fee if a permit is renewed by the original owner, before the expiration date. This change would allow a reduced fee for renewal even if the permit has expired. The schedule would also allow a reduced fee for transferring a permit, which at present is not allowed. An applicant wishing to transfer a permit to another person at present is required to obtain and pay the full fee for a new permit.

- An Innovative/ Alternative Technology Review fee is proposed to assist in off-setting the costs involved in reviewing and submitting new technologies to the Technical Review Committee. This is often a lengthy process which consumes much staff resource.

- A Material Plan Review fee is proposed, to allow the Department the engineering resource to review plans for approval of materials used in on-site systems.

General Public

The general public will be required to pay higher fees for on-site permitting activities. These activities include approximately 4,000 to 5,000 permits issued yearly in Oregon, the majority of which are issued by local governments who contract with the Department to carry out the activities necessary for the on-site program. In counties served directly by the Department, approximately 1000 to 1500 permits are issued each year.

The general public will be paying a lower fee for reinstatements and transfers of permits.

Small Business

There are over 1,200 licensed Sewage Disposal Businesses that have a business license through the Department. The vast majority are small businesses. The yearly renewal fee for the license will be increased from $190 to $400. When a new business wishes to be licensed, the fee will be $800, whereas it is now $260.

A small business that may be installing an on-site sewage disposal systems or undertaking an alteration, change in use or another permitted activity, will be paying an increased fee.

Large Business

Any large business that is licensed by the Department as a Sewage Disposal Business, will be paying business license fees as noted above for small businesses. Most large businesses, if utilizing a on-site sewage disposal system, will be permitted under a ongoing operation and maintenance WPCF permit. The fees for those permits are not being considered for revision at present.

Local Governments

Any local government that may install, alter or repair an on-site sewage disposal system that is not permitted under a WPCF permit, would be paying the higher fees.

State Agencies

The economic impact will result in a revenue gain to DEQ of approximately $1.8 million over the next biennium, (1999-2001). This increase in revenue will be used to retain presently vacant positions that cannot be supported by current revenue due to inflation factors over the last three years and will allow for additional resources for compliance activities as requested by the on-site industry and the Department's Rule Advisory Committee.

Assumptions

Any permit or license activity requested under this schedule will be paying a higher fee than at present.

Housing Cost Impact Statement

Due to the physical land area necessary to install an on-site sewage disposal system, the Department has determined that this proposed rulemaking will not place an additional charge on the cost of development of a 6,000 square foot parcel and the construction of a 1,200 square foot detached single family dwelling on that parcel. In general a 6,000 square foot parcel will not support an on-site system and associated development.

However on a parcel that is large enough to accommodate an on-site system, generally well over 10,000 square feet, the Department has determined an additional cost of $320, assuming the use of a standard on-site sewage disposal system. The additional cost will affect those areas of the state where on-site sewage disposal systems are utilized and where DEQ provides direct service, or in counties that have adopted this proposed fee schedule. This proposal does not affect residential housing or other development on municipal sewer systems.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal
for
Proposed Adoption of On-Site Sewage Disposal Activity Fees

Land Use Evaluation Statement

1. Explain the purpose of the proposed rules.

The purpose is to provide fees to implement the on-site sewage disposal program for both permit and non permit related activities. These activities include site evaluations, construction-installation permits, authorizations, and complaint investigations. These fees are the sole source of funding for the on-site program. Water Pollution Control Facilities (WPCF) permitting fees are not included in this proposal.

The proposed rule amendments pertain to fees only and not to specific land use activities and policies.

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.

a. If yes, identify existing program/rule/activity:

The on-site sewage disposal rules, OAR Chap 340-71& 73 require construction-installation permits for new on-site systems, repair of on-site systems, alteration of on-site systems and authorizations for placing into service or changing the use of on-site systems, that are considered to be land use actions.

b. If yes, do the existing statewide goal compliance and local plan compatibility procedures adequately cover the proposed rules?

Yes, currently Land Use Compatibility Statements are required from the affected local government, before issuance of a permit by DEQ or our contract Agent.

c. If no, apply the following criteria to the proposed rules.

Not applicable

In the space below, state if the proposed rules are considered programs affecting land use. State the criteria and reasons for the determination.

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.

8/4/98

Date

Questions to be Answered to Reveal
Potential Justification for Differing from Federal Requirements.
Adoption of On-site Sewage Disposal Activity Fees

1. Are there federal requirements that are applicable to this situation? If so, exactly what are they?

No.

2. Are the applicable federal requirements performance based, technology based, or both with the most stringent controlling?

Not applicable.

3. Do the applicable federal requirements specifically address the issues that are of concern in Oregon? Was data or information that would reasonably reflect Oregon's concern and situation considered in the federal process that established the federal requirements?

Not applicable.

4. Will the proposed requirement improve the ability of the regulated community to comply in a more cost effective way by clarifying confusing or potentially conflicting requirements (within or cross-media), increasing certainty, or preventing or reducing the need for costly retrofit to meet more stringent requirements later?

Not applicable.

5. Is there a timing issue which might justify changing the time frame for implementation of federal requirements?

Not applicable.

6. Will the proposed requirement assist in establishing and maintaining a reasonable margin for accommodation of uncertainty and future growth?

Not applicable.

7. Does the proposed requirement establish or maintain reasonable equity in the requirements for various sources? (level the playing field)

Not applicable.

8. Would others face increased costs if a more stringent rule is not enacted?

Not applicable.

9. Does the proposed requirement include procedural requirements, reporting or monitoring requirements that are different from applicable federal requirements? If so, Why? What is the "compelling reason" for different procedural, reporting or monitoring requirements?

Not applicable.

10. Is demonstrated technology available to comply with the proposed requirement?

Not applicable.

11. Will the proposed requirement contribute to the prevention of pollution or address a potential problem and represent a more cost effective environmental gain?

Not applicable.

State of Oregon
Department of Environmental Quality **Memorandum**

Date: August 14, 1998

To: Interested and Affected Public

Subject: Rulemaking Proposal - Adoption of On-Site Sewage Treatment & Disposal Activity Fees

This memorandum contains information on a proposal by the Department of Environmental Quality (DEQ) to adopt rule amendments regarding fees for on-site sewage treatment and disposal activities for the DEQ. As required by ORS 183.335, this memorandum also provides information about the Environmental Quality Commission's intended action to adopt a rule.

This proposal would increase many of the On-site Sewage Treatment & Disposal Program application fees established by the DEQ. Fees provide the revenue needed to fund the costs to implement the program, and are the **sole** source of funding for this DEQ program. The current fees do not provide the revenue needed to pay all the costs of program implementation. Water Pollution Control Facilities (WPCF) permitting fees are not affected by this proposal.

The revised fees would apply to site evaluations, construction-installation permits, repair permits, alteration permits and authorization notices and includes revision of the surcharge currently collected by the Department on all county-administered on-site permitting activities. This fee schedule would be in effect for those fourteen counties that the Department serves directly. The twenty-two other counties and contract agents are allowed by statute to charge costs to cover the on-site program up to the fees set by the Environmental Quality Commission (EQC). The contract agents may, therefore, set their own fees in compliance with Oregon Statues, but not higher than the EQC adopted fees.

The proposed fee schedule was developed using a 1994 program cost analysis completed by the Department to support a fee revision approved by the EQC at that time but not approved for implementation by the legislature. The current proposal adds inflation factors through the year 2000. The inflation factor is the Cost of Living Index (CPI) obtained from the State of Oregon Economist. In addition, specific fees were adjusted further as follows:

- *The license fee for Sewage Disposal Businesses.* The Department's Rule Advisory Committee recommended that this fee be increased to reflect inflation and to support additional compliance efforts and streamlining of the licensing process.

- *The fee for the second lot evaluation when more than one lot is requested to be evaluated.* The Rules Advisory Committee concurred with Department staff that time saved when doing other lot evaluations at the time of the initial lot is not significant enough to warrant a reduced fee for the additional lots.

A permit reinstatement and transfer fee.

At present the Department only allows a reduced fee if a permit is renewed by the original owner, before the expiration date. This change would allow a reduced fee for renewal even if the permit has expired.

The schedule would also allow a reduced fee for transferring a permit. At present, an applicant wishing to transfer a permit to another person is required to obtain and pay the full fee for a new permit.

- *An Innovative/ Alternative Technology Review fee* is proposed to assist in off-setting the costs involved in reviewing and submitting new technologies to the Technical Review Committee. This is often a lengthy process which consumes much staff resource.
- *A Material Plan Review fee* is proposed, to allow the Department the engineering resource to review plans for approval of materials used in on-site systems.

The Department has the statutory authority to address this issue under ORS 454.625 & 454.745. These rules implement ORS 454.745.

What's in this Package?

Attachments to this memorandum provide details on the proposal as follows:

Attachment A	The official statement describing the fiscal and economic impact of the proposed rule, (required by ORS 183.335).
Attachment B	A statement providing assurance that the proposed rules are consistent with statewide land use goals and compatible with local land use plans.
Attachment C	Questions to be Answered to Reveal Potential Justification for Differing from Federal Requirements.
Attachment D	The actual language of the proposed rule amendments.

Public Hearings:

Public hearings, at which comments will be received either orally or written, will be held. The public hearings will be held at the following dates and times, and at the following locations:

DATE: Tuesday, September 16, 1998
TIME: 3 p.m.
LOCATION: Oregon Department of Transportation Building,
3012 Island Ave., Room 201
La Grande OR

DATE: Wednesday, September 17, 1998
TIME: 6 p.m.
LOCATION: Deschutes County Commissioners Conference Room,
Upper Level,
1130 NW Harriman
Bend OR

DATE: Tuesday, September 22, 1998
TIME: 6 p.m.
LOCATION: Douglas County Courthouse,
Church Annex,
1134 SE Douglas Ave.
Roseburg OR

DATE: Wednesday, September 23, 1998
TIME: 3 p.m.
LOCATION: Seaside Community Center,
1225 Avenue A,
Seaside OR

DATE: Thursday, September 24, 1998
TIME: 6:30 p.m.
LOCATION: Oregon Department of Environmental Quality,
NW Region,
2020 SW 4th Ave., Room 4A.
Portland OR

Dennis Illingworth, DEQ, will be the Presiding Hearing Officer at the above public hearings.

Public Comment Period

You are invited to review these materials and present written comment on the proposed rule changes. Written comments must be presented to the Department by 5:00 p.m., September 30, 1998. Please forward all comments to Department of Environmental Quality, Attn.: Dennis Illingworth, Water Quality Division, 811 S.W. 6th Avenue, Portland, Oregon, 97204, or you may hand deliver the comments to the Department of Environmental Quality, 811 S.W. 6th, 7th Floor receptionist between 8:00 a.m. and 5:00 p.m.

In accordance with ORS 183.335(13), no comments can be accepted after the close of the comment period. Thus, if you wish for your comments to be considered by the Department in the development of these rules, your comments **must** be received prior to the close of the comment period. Interested parties are encouraged to present their comments as early as possible prior to the close of the comment period to ensure adequate review and evaluation of the comments presented.

What Happens After the Public Comment Period Closes

Following close of the public comment period, the Department will prepare a report which summarizes the comments received. The Environmental Quality Commission (EQC) will receive a copy of this report.

The Department will review and evaluate the rulemaking proposal in light of all information received during the comment period. Following the review, the rules may be presented to the EQC as originally proposed or with modifications made in response to the public comments received.

The EQC will consider the Department's recommendation for rule adoption during one of their regularly scheduled public meetings. The targeted meeting date for consideration of this rulemaking proposal is December 10 & 11, 1998. This date may be delayed if needed to provide additional time for evaluation and response to the public comments received. You will be notified of the time and place for final EQC action if you submit written or oral comment during the comment period or ask to be notified of the proposed final action on this rulemaking proposal.

Background on Development of the Rulemaking Proposal

Why is there a need for the rule?

The DEQ regulates on-site sewage treatment and disposal activities throughout Oregon, and performs program-related field services in 14 counties (4 in Western Oregon, 10 in Eastern Oregon). In the other 22 counties, many program responsibilities have been delegated (through inter-governmental agreements) to local units of government. Several of these counties are presently charging fees equivalent or higher than the present DEQ fees. To continue the service levels expected by their constituents, many counties have expressed a need to also raise fees.

Within the Department, the program consists of two identifiable segments, field services, and program and support services. Field services is responsible for performing work that is in response to applications (and fees) received within field offices, and must also perform other program duties that are not application (or fee) driven. Examples of non-application driven work include complaint investigation, sanitary surveys, enforcement activities, staff technical training and response to inquiries from the public. The program and support services portion of the program has responsibility for the development of administrative rules, licensing of sewage disposal service businesses, maintenance of the service agreements with local units of government, program planning and guidance and development of training strategies for staff.

The Department has set priorities for requesting general fund support from the legislature. There are limited general funds available for all natural resource agencies. State and federal mandates and priorities for the Water Quality Division include salmon recovery, surface water standards and assessments and the watershed approach to pollution control. With the associated costs of these other programs, the On-Site Sewage Disposal Program is the only activity capable of self support through fees. Funding to cover the DEQ's cost to implement all aspects of the program comes from application fees, surcharge fees, and sewage disposal service license fees. Based on a review and analysis of program costs and estimates of future activities, present fee revenue is not covering the DEQ's costs in providing a minimum level of program services. The on-site program has slashed spending for the remainder of this biennium. Four full time positions around the state have been cut from the program in 1998.

With these cutbacks and without an increase in fees to support the program:

- Site evaluations and subsequent permits are not being completed and issued within the accustomed time period that installers, builders and homeowners have come to expect. Time delays are now worsening due to an increasing backlog during the building season. Time for site evaluations that have been performed within two to four weeks in some DEQ offices will be taking five to seven weeks. These times will increase without the new fees.

- Variances and report reviews for the on-site rules will be put low on the priority list. These requests have generally been acted upon within one to two months from the date of application. Response for variances and report reviews are now expected to take six to nine months. These times will increase without the new fees.

- Complaints will be investigated only when submitted in writing and shown to be a present health or environmental hazard. With the present cutback's anonymous complaints may not be investigated. Without a fee increase, anonymous complaints will not be investigated.

- Sanitary surveys of areas requesting sewer service due to failing on-site systems, will be delayed for a year or longer.

- Technical assistance to counties has been cutback and may cease.

How was the rule developed?

The proposed fee schedule for the DEQ was developed after reviewing the 1994 analysis indicating time needed to process applications, staffing levels, field services data concerning past applications received, and completion of a budget analysis, with input from the Department's Rule Advisory Committee.

A draft of the proposed rule was presented to the Rules Advisory Committee. The committee expressed consensus and support for the DEQ to develop a fee schedule that would fund program services and provide for compliance needs.

Copies of the documents relied upon in the development of this rulemaking proposal can be reviewed at the Department of Environmental Quality's office at 811 S.W. 6th Avenue, Portland, Oregon. Please contact Dennis Illingworth, 503-229-5189, for times when the documents are available for review.

Whom does this rule affect including the public, regulated community or other agencies, and how does it affect these groups?

The proposed rule will affect all persons, businesses, and others that submit applications for on-site activities. Although the application fee for services performed by DEQ will be higher, the level of service is expected to be improved in that staff will be able to respond to applications and other requests for assistance faster.

How will the rule be implemented?

If the proposed rule amendments are adopted by the EQC, the revised fee schedule will replace the current fee schedule used by all of the DEQ offices that accept applications for on-site activities. Department staff are at present accepting fees from the public, therefore no distinct preparation is needed for this purpose. The Department plans to notify newspapers, local installers and pumpers of the changes before the effective date. There will be notices posted and handouts available at DEQ offices for a period of time before the fees become effective.

This implementation plan may need to be modified to accommodate any legislative action regarding these fees.

Contact for More Information

If you would like more information on this rulemaking proposal, or would like to be added to the mailing list, please contact Dennis Illingworth. The phone number is 503-229-5189.

This publication is available in alternate format (e.g. large print, Braille) upon request. Please contact DEQ Public Affairs at 503-229-5317 to request an alternate format.

Attachment C

State of Oregon
Department of Environmental Quality

Memorandum

Date: November 3, 1998

To: Environmental Quality Commission

From: Dennis Illingworth

Subject: Presiding Officer's Report for Rulemaking Hearings

Hearing dates, time and locations: September 16, 3 p.m. in La Grande,
September 17, 6 p.m. in Bend,
September 22, 6 p.m. in Roseburg,
September 23, 3 p.m. in Seaside,
September 24, 6:30 p.m. in Portland.

Title of Proposal: Adoption of On-Site Sewage Treatment & Disposal Activity Fees

The rulemaking hearings on the above titled proposal were convened on the dates noted above and at 3:15 p.m. in La Grande, 6:15 p.m. in Bend, 6:15 in Roseburg, 3:20 p.m. in Seaside and 7 p.m. in Portland. 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.

The following summarizes the attendance at each of the hearings:

La Grande:	One person in attendance and signed to give testimony.
Bend:	Six people in attendance, no one signed up for testimony.
Roseburg:	One person in attendance, no one signed up for testimony.
Seaside:	Five people in attendance, two signed up for testimony.
Portland:	No one in attendance.

Prior to receiving testimony, Dennis Illingworth briefly explained the specific rulemaking proposal, the reason for the proposal, and responded to questions from the audience.

Summary of Oral Testimony

La Grande: Larry Campbell, a licensed Installer, testified that he was not opposed to fee increases if they were "not out of line," however he had not seen the proposal before the hearing and only read about it the newspaper.

Seaside: Eldon J. Wright, a property owner, testified opposing any fee increase and believes the fees are spent on more office space and bureaucracy.

Seaside: Clyde Mc Donald, a licensed septic tank pumper, testified opposing fee increases due to the lack of service in Clatsop County. He would not be opposed to reasonable fees if a full time Sanitarian was in Clatsop County, however the last time the fees were raised the Sanitarian was full time and then dropped to part time. He testified he specifically opposed the septic tank pumper truck inspection fee increase.

Written Testimony

The following person in **Bend** handed in written comments but did not present oral testimony:

Roger Everett, with the Deschutes County Environmental Health Division. This written testimony is part of the written comment list attached as part of this report.

There was no further testimony and the hearings were closed at the following times:

La Grande:	3:25 p.m.
Bend:	6:20 p.m.
Roseburg:	6:20 p.m.
Seaside:	3:45 p.m.
Portland:	7:03 p.m.

Written comments have been received from:

Ronald R. Hukill, Hukill's Ready Rooter & Repair, Klamath Falls OR
Jerry Johnson, Hunter Excavations, Madras OR
Jim Rust, Hoedown Company, Klamath Falls OR
Richard Polson, Clackamas County OR
Roger Everett, Deschutes County OR
John Rempelos, Bill Rempelos, Inc., North Bend OR
Art Koning, Koning Cooper Construction Inc., Florence OR
Angelo Irigoyen ,Angelo's Backhoe Service, Central Point OR
Danial B. King, Redi-Rooter, Pendleton OR
John C. Neikirk, Neikirk Designs, North Bend OR
Bob Wilson, Benton County OR
James D. Scarborough, Astoria OR
Hugh Seppa, Warrenton OR
James G., and Jeffrey C. Evers, Grande Ronde Construction Co., La Grande OR
Herb Manning, Langlois OR
Tal S. Botner, Tal Botner Excavation, Yoncalla OR
Michael D. Kelly, Rogue Valley Pumping, Grants Pass OR
Don Heikkila, Don Heikkila Trucking, Buxton OR
Kenneth D. Cote, Jackson County OR
Terry Bounds, Orenco Systems Inc., Sutherlin OR
Mary MacArthur, Dayville OR
Jon Chandler, Oregon Building Industry Association, Salem OR

Copies of these comments are available on request.

The Department's Evaluation and Response to Significant Public Comment

The following lists specific issues raised in the comments that were received and the Department's response.

- Many affected persons did not know of the proposal.

  The complete proposal packet was sent to over 1200 people on the Water Quality mailing lists, including all licensed installers and pumpers. All newspapers were notified through a press release and the information put on the DEQ web page.

  However in response to this comment, the Department sent a post card notice of the proposal to over 1700 people and issued further press releases, extending the comment period to October 26, 1998.

- The proposed fees are too high.

  The proposed fees will support service levels intended by the legislature. The Department does not believe the legislature will provide General Funds for this program. The costs of this program have risen due to both general inflation factors and state negotiated benefits package. Neither of these are within control of the on-site program. Activity levels, remain constant in Oregon's growth economy. With marginal lots being developed, additional time is spent on evaluations and writing permits for technologically advanced systems, in turn increasing time spent by the field staff on many sites. Response to complaints and follow-up enforcement has not been adequate.

  The Department has surveyed smaller Oregon towns and cities utilizing sewer for comparisons of sewer fees versus permit fees for on-site sewage disposal systems. The average cost for connection to sewer, including the systems development charge, any connection fees, and the first years monthly fees is $1243. The average cost without the monthly fees is $1017. This average is conservative in that some of the city fees are in the process of being revised upwards.

  Under the modified proposal discussed in Attachment E, the site evaluation, permit for a standard system and surcharges would total $1160. Standard systems account for approximately 70% of the new systems installed. The cost for installing a sand filter, (10% of the new systems installed) totals $1730.

- The license fees are being raised too high and will put people out of business that only install a few systems a year:

  The proposed higher license fees had been suggested by the Advisory Committee. The Committee intended these increases to provide for licensed Sewage Disposal Service Business compliance oversight. At present, few license enforcement actions are taken; fortunately most installers are knowledgeable and don't cause problems.

However installers that do this work only on an occasional basis are often not up on current construction methods or current rules. This field, like many others is becoming specialized. A backhoe owner cannot necessarily construct any on-site system, without ongoing training and installation.

There have also been instances of improper disposal of liquid wastes. Enforcement resources to properly follow up on these activities are not available under current staffing levels.

- Fees are lower in other states and;
- Private contractors could do the work for less.

Most states do not have a statewide on-site program. Local governments administer the program with various fee methods, many of which involve subsidizing the program with funds from other sources. Some states require a private consultant to do the evaluation and precover, a concept Oregon has considered, but after hearing of problems in other states, is wary of. It is still something to be discussed, but the fact is a similar cost will be borne by the permittee. The consultant collects a fee for both the evaluation and the precover and the county collects the permit fee. The overall cost does not necessarily decrease.

In discussion with consultants in Oregon, some of the evaluation fees now paid to DEQ may be higher if conducted by a private consultant where the evaluation is in a remote area of the state. Further, costs of investigating complaints, performing sanitary surveys, providing technological advice, oversight and training to contract agents, and administrative functions of the program would continue. The cost to DEQ to provide service for these non-fee activities would be subsidized by higher permit fees or surcharges.

- Questions as to what services will be provided by the surcharge assessed on permitting activities.

Contract counties are questioning the use of the surcharges. The surcharges cover administrative costs of DEQ's program. This includes rule development, providing technical staff training and development, county oversight, some enforcement activities, etc. The counties are generally not opposed to these uses of the surcharges; however, some large more populated counties are concerned that constituents in their counties are subsidizing the on-site program in rural areas of the state. Granted, the desired use of the surcharge is to fund the administrative activities of the program, but some subsidizing inevitably occurs in a statewide program.

- Higher fees will result in more illegal system installation.

This is an unfortunate risk with any increased fee in a regulatory program. Generally most system installations are "tied" into other activities that also require a permit from another agency; i.e.; construction of a house, remodel or alteration of a house, or changing the use of a structure, (i.e. from residential to commercial). The coordination between DEQ and the land use and/or building agencies help keep illegal installations to a minimum.

The simple repair of a system when no other activity is occurring is the most likely scenario to result in an illegal installation. These situations often come to the attention of the Department at the time of sale of the property, and a potential buyer or Realtor asks questions regarding the on-site sewage disposal system. The proposed fees will provide revenue to add field staff for enforcement and compliance efforts.

- Questions as to why DEQ needs higher fees than the Contract County Agents:

  Many Contract Agents subsidize the on-site program through general funds. Further, DEQ performs the program in any part of the state that does not wish to contract with the Department. This obviously leaves the areas that are very rural and sparsely populated served by DEQ. The permitting activity fees must offset the costs of providing service to all areas. DEQ also provides oversight of the county programs, technical assistance to the counties, report reviews, variances (the fee for which is set by statute and does not cover the cost) and rule development, all of which DEQ must provide.

- Questions if there will be any improved service from the higher fees.

  These questions came from installers inquiring about a perceived lack of service in contract counties. DEQ cannot comment on possible improvement of service from counties that contract with the Department to carry out the on-site program. However the proposed fees from either the present proposal or the modified alternative discussed in Attachment E, should allow counties to charge fees necessary to provide adequate service levels. In addition, the proposed fees would provide for improved county oversight on the part of the Department.

  As for DEQ direct service counties, it is reasonable to expect increased service when the present vacant positions are filled next biennium if increased fees are adopted. Compliance efforts would also be increased if the enhancement package is adopted by the Legislature.

  In response to these comments, the Department has revisited the original proposal in an effort to lessen increases for some activities. These modifications will continue to allow the program to operate at acceptable service levels. The specific modifications are discussed in Attachment E.

Changes to the Original Rulemaking Proposal made in response to Public Comment.

The On-site program has developed an alternative to the proposed fee schedule that went out to public notice.

The program is attempting to fund 26 budgeted FTE, 4 of which are presently unfunded, and add 4.5 FTE, for a total of 30.5 FTE. The proposed alternative would be to adjust many activity fee increases downward, while allowing projected revenue to be sufficient to support the program but with less reserve.

The following activity fees would remain the same as the original proposal that went to public hearing:

Site evaluation	$450
Authorization without a site visit	$100
Report Review	$400
New license	$800
Renewal of license	$400
Surcharges	$40

The following major activity fees would be revised downward from the original proposal that went to public hearing:

Activity	**Revised fee proposal**	**Original fee proposal**
Standard System permit	$630	$665
Capping Fill System permit	$950	$1000
Pressure Distribution permit	$950	$1000
Sand Filter permit	$1200	$1300
Other Alternative System permit	$630	$665
Alteration permit	$620	$650
Repair- Major permit	$345	$365
Repair- Minor permit	$165	$175
Renewal of permit with site visit	$325	$340
Renewal of permit w/o site visit	$95	$100
Authorization with site visit	$390	$400

Pumper truck inspections would decrease from the proposed $120 to $100 for the first truck inspection and from $60 to $50 for each additional truck inspection.

Minor activity fees are not listed here, but have also been adjusted accordingly. All modifications are reflected in the proposed 340-71-140 rule. This proposed rule also shows the current fee.

This alternative allows for a safety margin of approximately $390,000 for the biennium if workload/revenue projections are not realized. This $390,000 is approximately 7 to 8% of the biennial projected budget.

This is not an unreasonable amount to budget for unexpected costs, decreased revenues, or a combination of both. As indicated in the most recent budget forecast, the projected deficit for the on-site program for this biennium is over $400,000.

This alternative therefore, is preferred both to provide adequate service levels and sound budget management practices, and is recommended by the Department for adoption by the EQC.

On-Site Rules Advisory Committee Membership and Report

An advisory Committee was used for the development of these proposed rule amendments. The committee consisted of twelve members representing various of the on-site industry. A total of three meetings were held, discussing fee proposals in general and then specifics and other suggested rule amendments. Although the Committee reached consensus to approve the fee increases, the members were not requested to vote individually.

Attached is a list of committee members.

On-Site Rules Advisory Committee
1998

Terry Bounds
Orenco Systems Inc.
814 Airway Ave.
Sutherlin OR 97479
Phone: 541-459-4449

Mike Ebeling
City Of Portland
Bureau of Buildings
PO Box 8120
Portland OR 97204-8120
Phone: 503-823-7247

Roger Everett
Environmental Health Director
Community Development Dept.
1130 N.W. Harriman
Bend, Oregon 97701
Phone: 541-388-6564

Jim Johnson
Oregon Department of Agriculture
Natural Resources Division
635 Capitol St. NE
Salem, OR 97310
Phone: 503-986-4706

Michael Madson
925 Fox Hill Ln
Roseburg OR 97470
Phone: 541-673-6731

Robert Paeth
37401 E Knieriem Rd
Corbett OR 97019
Phone: 503-695-5464

Stan Petrasek, Manager
On-site Sewage Program
Department of Public Works
Lane County
125 East Eighth
Eugene, OR 97410
Phone: 541-682-3951

Bruce Phillips
Cascade Phillips Co.
PO Box 47
Oregon City OR 97045
Phone 503-656-9415

Cliff Porter
Northwest Sanitation
P.O. Box 900
Gresham, OR 97030-9998
Phone: 503-221-7755

Bob Rapp
Oregon Building Industry Association
7030 SW 209th
Beaverton, OR 97007
Phone: 503-649-8968

Jerry Schmidt
Land Use/Water Policy, Government
Affairs Specialist
Oregon Association of Realtors
693 Chemeketa ST NE • PO 351
Salem, OR 97308
Phone: 503-362-3645

John Smits
Smits and Associates
PO Box 116
Clackamas OR 97015-0116
Phone: 503-659-5623

State of Oregon

Department of Environmental Quality Memorandum

To: Environmental Quality Commission **Date**: December 10 , 1998

From: Langdon Marsh, Director

Subject: Addendum to Agenda Item H, Proposed Amendments to Oregon Administrative rules, Chapter 340, Division 48, adding a fee schedule applicable to applications for certification of compliance with water quality requirements and standards for projects which are subject to federal agency permits or licenses (401 water quality certifications), EQC Meeting December 11, 1998.

The Department is recommending the following revisions to the proposed rule amendments based on recommendations for clarity from Commissioner Reeve.

Division 48
Certification of Compliance with Water Quality Requirements and Standards

340-48-0200

(1) Persons applying for a 401 water quality certification for removal of material shall pay the following fees:
- (a) 500 cubic yards----------$500.
- (b) Greater than 500 cubic yards----------$500
  plus $.025 for each additional cubic yard of removal up to a maximum of $40,000.

(2) Persons applying for a 401 water quality certification for filling of material shall pay the following fees:
- (a) 2 acres----------$500.
- (b) Greater than 2 acres----------$500
  plus $250 for each additional acre of fill up to a maximum of $40,000.

(3) Persons applying for a 401 water quality certification for activities not otherwise classified requiring detailed analyses shall pay the following fee:
- (a)Application of salt in ski areas----------$5,000.

(4) Only one water quality certification fee shall be applicable for a project which requires both removal of material and filling of material in the immediate area of the excavation[1]. The highest fee shall apply.

(5) All fees shall be made payable to the Business Office, Oregon Department of Environmental Quality.

(6) The water quality certification fee may be refunded if either of the following conditions exist:
- (a) The Department determines that no certification will be required.
- (b) The Department determines that the wrong application has been filed.

(7) Fees will not be charged for activities:
- (a) That have an operating permit for surface mining under ORS chapter 517;
- (b) Relating to commercial sand and gravel removal operations;
- (c) Involving removal of less than 500 cubic yards of material;
- (d) Involving a fill of less than two acres.

[1]Example where only one fee will apply--removal of material for a trench followed by back filling of the trench.

The Department recommends that the Commission adopt the proposed rule amendments with the clarifications recommended by Commissioner Reeve.

Report Prepared By: Thomas J. Lucas
Phone: (503) 229-6099
Date Prepared: December 10, 1998

PPD|WC15\WC15056.doc

State of Oregon
Department of Environmental Quality Memorandum

To: Environmental Quality Commission **Date:** November 16, 1998

From: Landon Marsh, Director

Subject: Agenda Item H, Proposed Amendments to Oregon Administrative Rules, Chapter 340, Division 48, adding a fee schedule applicable to applications for certification of compliance with water quality requirements and standards for projects which are subject to federal agency permits or licenses (401 water quality certifications), EQC Meeting December 11, 1998.

Attached to this memorandum is the staff report from the October EQC meeting on this matter. The Presiding Officer's report on the extended comment period is also attached.

The proposed fee schedule was initially scheduled for Commission action at the October 30, 1998, meeting. Because concern was expressed by members of the Oregon Water Resources Congress that they had not received notice of the public hearing, the Department concluded that additional opportunity to comment should be given to the Congress and any other interested public. In late October the Department sent out postcards extending the comment period through November 13. Department staff met with members of the Congress in Salem on November 10 to explain the proposal and to answer questions. Written comment was received from two members of the Congress on November 13. No other comment was received.

Department Recommendations are not changed from the recommendations contained in the attached report.

Attachments
Presiding Officer's report on the extended comment period.
Staff Report prepared for the October 30, 1998, EQC meeting.

Report Prepared By: Thomas J. Lucas
Phone: (503) 229-6099
Date Prepared: November 16, 1998.

State of Oregon
Department of Environmental Quality

Memorandum

Date: November 16, 1998

To: Environmental Quality Commission

From: Tom Lucas TJL

Subject: Presiding Officer's Report on Extended Comment Period.
Title of Proposal: Proposed amendments to Oregon Administrative Rules, Chapter 340, Division 48, adding a fee schedule applicable to applications for certification of compliance with water quality requirements and standards for projects which are subject to federal agency permits or licenses (401 water quality certifications).

Extended Comment Period
The rule making hearing on the above titled proposal was held on September 9, 1998. The comment period closed September 14, 1998. A staff report was prepared for Commission action at the October 30, 1998 meeting. Attachment C was the Presiding Officer's Report on the Public Hearing and Attachment D was the Department's evaluation of public comment.

In mid-October, concern was expressed by members of the Oregon Water Resources Congress that they had not received notification of the public hearing and consequently did not have opportunity to comment. The Department concluded that additional opportunity should be afforded to this group and any other interested public. The staff report was removed from the Commission agenda.

On October 28-29, 1998, postcards were mailed to all recipients of the earlier public notification, and to all members of the Oregon Water Resources Congress, extending the public comment period through November 13, 1998. In addition, staff reviewed the mailing lists for completeness. Press releases were also sent out to the media. Additional information was provided to the Congress.

Meeting and Comment
Department staff met with members of the Oregon Water Resources Congress at their office in Salem on November 10, 1998, to explain the fee proposal and to answer questions. Several members of the Congress attended. No written comment was given at the meeting.

Written comment was received from Norman Bing of the Sutherlin Water Control District on November 13, 1998. This district is a member of the Congress. Mr. Bing stated that removal activities that do not require approval from the Corps of Engineers should be exempt from fees as well as projects mandated by the federal government. Mr. Bing requested that, for these reasons, Water Control Districts and Drainage Districts be exempted from the fee schedule. (Note—removal activities that do not now require a 404 permit from the Corps also do not require a 401 Water Quality Certification, and would not be assessed a fee.)

Written comment was also received from Jan Lee, Executive Director of the Congress. She opined that the fee impact on Congress members would probably be minimal but she intends to monitor the impact of the fee over time.

She expressed concern with equity in the fee process but noted that the inequity resulted from the legislative process, and not by administrative rule.

No further comment was received at the end of the comment period.

Environmental Quality Commission

☒ Rule Adoption Item
☐ Action Item
☐ Information Item

Agenda Item B
October 30, 1998 Meeting

Title:

Agenda Item B, Proposed Amendments to Oregon Administrative Rules, Chapter 340, Division 48, adding a fee schedule applicable to applications for certification of compliance with water quality requirements and standards for projects which are subject to federal agency permits or licenses (401 water quality certifications), EQC Meeting October 30, 1998.

Summary:

The Department is proposing 401 fees for Department regulatory activities associated with issuance of 401 water quality certifications for applications involving filling of material, removing of material, and miscellaneous activities which are restricted to salting of ski areas. The fees are needed to fund an additional staff person to assist in processing and evaluating applications and for issuing the certifications. The proposed fees will generate new revenues of about $150,000-$160,000 per biennium.

The proposed fees are pursuant to recent legislation passed by the 1997 Legislature (SB 1114). The legislation exempted from assessment of fees certain activities including surface mining activities, commercial sand and gravel operations, removal activities of less than 500 cubic yards and fill activities of less than two acres. Also, the Department is not proposing fees for certifications associated with grazing activities.

The proposed fee schedule establishes a base fee of $500 for 500 cubic yards of material removed and $500 for two acres of fill. The fee schedule includes additional charges for cubic yards removed beyond 500 and acres filled beyond two. The maximum fee that can be charged is $40,000. The Department proposes to apply only one fee for two closely related activities in the immediate area. A flat charge of $5,000 is proposed for water quality certifications involving application of salt in ski areas. The Department used an advisory committee to review various fee schedules; the committee supported the proposed fee schedule.

One person testified at the public hearing, and there were four pieces of written testimony. Commenters testified both against the fees and in favor of the fees.

Department Recommendation:

It is recommended that the Commission adopt the rule amendments by adding a fee schedule applicable to applications for 401 water quality certifications for removal activities of 500 cubic yards or greater, fill activities of two acres or greater and for application of salt in ski areas, as presented in Attachment A of the Department Staff Report.

Report Author | Division Administrator | Director

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

Date: October 30, 1998

To: Environmental Quality Commission

From: Langdon Marsh

Subject: Agenda Item B, Proposed Amendments to Oregon Administrative Rules, Chapter 340, Division 48, adding a fee schedule applicable to applications for certification of compliance with water quality requirements and standards for projects which are subject to federal agency permits or licenses (401 water quality certifications), EQC Meeting October 30, 1998.

Introduction

A "401 water quality certification" is common terminology used to describe a program to ensure that certain activities do not violate water quality requirements and standards or impair beneficial uses of navigable waters. The process begins with an application for a federal license or permit. If the permit will allow any activity which may result in a discharge into navigable waters then, through the provisions of the federal Clean Water Act and federal regulations, the State must issue a certification that the various water quality standards will be met. The certification usually contains various requirements intended to minimize environmental impacts. Once the certification is issued by the State environmental agency, the federal agency that received the application will usually issue the permit. In essence, the requirements of the certification become part of the federal permit.

The 401 certification process is very broad because there are many federal licenses and permits. An important example is the 404 dredge and fill permit generally issued as a joint permit in Oregon by the Corps of Engineers and the Oregon Division of State Lands. A 404 permit could allow discharges of material due to the activities of dredging and filling of material in wetlands. Another important example is a new license to construct and operate hydroelectric facilities, or a license renewal to allow continued operation of hydroelectric facilities.

The 401 certification process is very broad because it applies to all surface waters and connected groundwaters of the State of Oregon. The federal Act is aimed at navigable waters, which is defined as waters of the United States (U.S.). Waters of the U.S. is generally equivalent, but not identical, to waters of the State.

The 401 is also very broad because the various water quality requirements that must be met can be quite complex. Water quality requirements and standards must be maintained, beneficial uses must be fully protected, and any applicable effluent limitations and other performance requirements must be met. The decision to grant or deny certification is based on the State's determination from data submitted by the applicant (and any other available information) whether the proposed activity will comply with the water quality requirements.

Background

On May 18, 1998, the Director authorized the Water Quality Division to proceed to a rulemaking hearing on proposed rules which would add a fee schedule to Division 48, Certification of Compliance with Water Quality Requirements and Standards. The fee schedule would implement fees applicable to applicants for 401 water quality certifications pertaining to proposed fill projects, proposed removal projects and proposed miscellaneous projects.

Pursuant to the authorization, hearing notice was published in the Secretary of State's Bulletin on August 1, 1998. The Hearing Notice and informational materials were 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 August 4, 1998.

A Public Hearing was held September 9, 1998, with Tom Lucas serving as Presiding Officer. Written comment was received through September 14, 1998. The Presiding Officer's Report (Attachment C) summarizes the oral testimony presented at the hearing and lists and summarizes all the written comments received. (A copy of the comments is available upon request.)

Department staff have evaluated the comments received (Attachment D). Based upon that evaluation, no modifications to the initial rulemaking proposal are being recommended by the Department.

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

This rulemaking is needed to address the issue of lack of necessary resources for the Department to receive, process, evaluate and issue 401 water quality certifications. The water quality program does not charge any fees, with the exception of certification activities related to hydroelectric projects, for the regulatory activities associated with issuing the certifications. Related water quality program activities, such as domestic and industrial permits, are supported by a combination of waste discharge permit fees, federal grants and State general funds.

About one-thousand certification activities were performed by the Department in 1997; the number is expected to be slightly higher in 1998. One full-time staff person (FTE) is assigned to this work, funded with State general funds. One FTE is very insufficient to properly perform this regulatory activity, particularly for the evaluation of large and complex project applications that require substantial analysis, fieldwork and detailed conditions necessary to protect water quality and to provide the applicant a level of comfort that their activities will be environmentally protective. Because of the lack of resource, many large projects do not receive any field evaluations at all, and the water quality program is often forced to rely entirely on the application or on limited information gathered from other agency personnel who have had opportunity to visit the site.

The 1997 Legislature addressed the problem of lack of resources for 401 water quality certifications by passing Senate Bill 1114 (sections 3 and 4). Senate Bill 1114 (now codified in ORS 468.068) will allow the Department to charge fees for many of the larger activities. After exemptions required by statute there will be about sixty projects annually involving fill and removal of material, or 120 projects per biennium, that can be charged a fee under the proposed fee schedule (Attachment A). It is anticipated that the revenues would be about $150,000 to $160,000 per biennium, sufficient to support one technical position.

Two full time positions (the existing position funded with State general funds and the new position funded with fee revenues) would be adequate staffing to perform the essential field work and detailed evaluations. The work would probably be split with one position processing the many small applications and the other position processing the larger, more complex applications.

The Department could also process applications in a more timely manner. During the late spring and summer the number of applications is such that processing time exceeds a month for many applications and even exceeds 60 days for some applications. These delays can be expensive to project applicants.

Most of the 401 water quality certification activities will be associated with projects that involve filling of material or removal of material. These activities require permits from the Corps of Engineers (COE) or the Division of State Lands (DSL) and are commonly known as 404 fill and removal permits. In most cases the COE and DSL issue a joint 404 permit. The fee schedule (Attachment A) includes specific fees for filling of material and removal of material.

Since the Department's 401 certification authority extends beyond only certifications for fill and removal permit applications, the Department is also proposing fees for miscellaneous activities. There is only one miscellaneous activity in the fee schedule, and this is application of salt in ski areas. The certification action by the Department would be in association with a U.S. Forest Service permit to allow skiing in certain areas on federal lands, e.g., several ski areas around the base of Mt. Hood.

This rulemaking proposal does not address 401 certification fees for grazing activities (in association with grazing permits issued by the U.S. Forest Service or Bureau of Land Management), or for hydroelectric facilities. A recent federal court decision has eliminated the requirement for grazing activity 401 certifications, and fees are already set by statute for hydroelectric facility applications (see ORS 468.065(3)).

Relationship to Federal and Adjacent State Rules

Section 401 of the federal Clean Water Act (U.S.C 1341) requires that any applicant for a federal license or permit which may discharge into navigable waters or impact water quality, must provide the licensing or permitting agency a certification from the Department that any such activity will comply with water quality requirements and standards (Sections 301, 302, 303, 306 and 307 of the Act). Section 401 does not require that States adopt fees to perform the necessary certification activities but sufficient resources are necessary to perform the regulatory work. Collection of fees for these activities is clearly consistent with the federal Act.

The adjacent States of Washington, Idaho and California are also required to issue 401 water quality certifications

Authority to Address the Issue

The EQC has authority to set fees for 401 water quality certifications through legislation passed by the 1997 Legislature, at ORS 468.068, " Fees for state certification under section 401 of the Federal Water Pollution Control Act; disposition of fees."

The EQC has authority pursuant to state statute at ORS 468.020 authorizing the adoption of rules to carry out the functions vested in the Commission, and at ORS 468.035 authorizing the adoption of rules to implement the federal Clean Water Act.

The EQC also has authority to address this issue through the provisions of Section 401 of the federal Clean Water Act (33 U.S.C. 1341)

Process for Development of the Rulemaking Proposal (including Advisory Committee and alternatives considered)

The Department used a "401 Fee Advisory Committee" to assist in developing a proposed fee schedule (actual membership is Attachment F). The advisory committee met five times between December 1997 and March 1998, providing advice and comment on various drafts of proposed rules. Committee consensus on proposed rules was reached at the March 31, 1998, meeting. An attempt was made to gather input from many diverse interests:

Portland of Portland—ports
Portland General Electric—utilities and industry
Corps of Engineers—federal fill and removal permits [1]
Oregon Division of State Lands—state fill and removal permits [1]
Woodward-Clyde—consulting firm, development interests
Unified Sewerage Agency—municipal waste treatment, Association of Clean Water Agencies
Cattleman's Association—grazing interests.
Oregon Department of Transportation—transportation and utility.

The committee reviewed several fee schedule alternatives and different methods for calculating fees. The committee finally concluded that the most workable schedule should include the following attributes:

- A minimum fee based on 500 cubic yards removed for removal activities, and a minimum fee based on two acres of fill for fill activities. The establishment of fees beginning at 500 cubic yards of material removed and 2 acres of fill is consistent with the statute since the statute exempts from fees activities of less than 500 cubic yards removed and less 2 acres of fill.
- Additional fees should be based on additional cubic yards removed and additional acres filled.
- A maximum fee should be imposed. The maximum fee selected was $40,000 which is also the maximum fee set by statute for processing a new hydroelectric application for a 401 water quality certification.
- The committee finally concluded that a miscellaneous fee category should be included in the schedule but that it should be restricted, at least initially, to application of salt in ski areas.

In addition to issues involved in establishing a fee schedule, there were some additional concerns. The committee did not feel that the actual fees were based on solid information regarding effort to perform certain activities, for example, time sheets with time spent on various projects. The committee recommended that the fee schedule be reviewed, and revised if appropriate, when better information became available. The committee was also concerned about charging twice for the same project. For example, a single project might involve both removal of material and subsequent filling of material. The Department generally would evaluate the filling and removing of material together. An example would be excavation for a trench and back-filling the trench. The committee recommended that only one fee be charged for two related activities in the same area.

[1] The representatives from these organizations attended only one committee meeting each. They were kept informed through agenda and minutes of the committee's progress and expressed no formal objection to the proposed fee schedule.

The Department accepted the 401 Fee Committee recommendations, with one revision. The recommendation to apply only one fee for two related project activities in the "same area", was changed to "immediate area."

Summary of Rulemaking Proposal Presented for Public Hearing and Discussion of Significant Issues Involved.

The 401 Water Quality Certification fee schedule presented for public hearing included the following components:

- Fees were proposed for activities involving removal of material of 500 cubic yards or greater. The base fee is $500 for 500 cubic yards and 2.5 cents for each additional yard removed. A removal of 100,000 cubic yards would generate a fee revenue $2,875.
- Fees were proposed for activities involving filling of material of 2 acres or greater. The base fee is $500 for 2 acres and $250 for each additional acre of fill. A fill of 10 acres would generate a fee revenue of $2,500
- A fee was proposed for miscellaneous activities but was restricted to application of salt in ski areas only. The proposed fee is $5,000.
- A maximum fee of $40,000 was proposed for fill and removal projects. A very large dredging project of 1.6 million cubic yards would generate a fee revenue of about $40,000
- Only one fee would be applicable to a project which would require both removal of material and filling of material in the immediate area of excavation. The highest fee would apply.
- Statutory exemptions were listed, including activities that have an operating permit for surface mining, activities relating to commercial sand and gravel operations, activities involving removal of material of less than 500 cubic yards, and activities involving a fill of less than two acres.

Summary of Significant Public Comment and Changes Proposed in Response

A public hearing was held at DEQ headquarters in Portland on September 9, 1998, and written comments were received through September 14, 1998. This hearing was announced through the Secretary of State Bulletin, mailing of rulemaking proposal to a broad mailing list, placement of rulemaking proposal on the Internet at the DEQ web site, and issuance of press releases to a broad media list.

There was only one oral testifier at the public hearing. Four written comments were received by the September 14 deadline. One commenter expressed that the fees should not be imposed, that other agencies do not charge fees for related work, and that DEQ should rely on other funding sources. Another commenter expressed that the threshold is too low (500 cubic yards for removal of material and 2 acres for filling of material) and that the threshold should be raised so that only the large and complex projects would pay a fee. One commenter supported the idea of fees but wondered if fees

would be necessary now that grazing certifications will not be issued. One commenter supported the fees and suggested that additional regulatory costs, such as water quality monitoring, should be paid for by the project applicant.

No changes to the proposed fee schedule were made in response to the comments. The Department believes that the fee schedule is needed to secure an additional staff person to perform the necessary pre-certification activities. If the Commission adopts the schedule as proposed there will be two full time staff working on these applications for certification; the fee revenues will account for about one-half of the processing costs. This percentage of costs (50%) is similar to fee revenues as a percentage of costs in the 402 NPDES permit program and for State WPCF permits. The Department recognizes that more work is needed to identify costs for the various activities and types of project. A proposal may be made to the Commission in the future to adjust the schedule.

Summary of How the Proposed Rule Will Work and How it Will be Implemented

The proposed fee schedule will be implemented by water quality program staff but cooperation will be needed from the Corps of Engineers (COE) and the Division of State Lands (DSL). Applicants for 404 fill and removal permits normally contact one or both of these two agencies first, and an application package is forwarded to the applicant. The Department will prepare a fact sheet regarding the 401 water quality certification fee schedule and attach the actual fee schedule to the fact sheet. This information will be included in the application packet sent by the COE or DSL.

After the COE or DSL receives a completed application, they put out a public notice, including DEQ's public notice. DEQ receives the public notice and a copy of the application. Water quality program staff will evaluate the application to establish the appropriate fee. The applicant will then receive an invoice for the fee amount. Water quality program staff assigned to the 401 certification work will be available to provide technical assistance by answering questions and explaining the calculation of the fee.

Recommendation for Commission Action

It is recommended that the Commission adopt the rule amendments by adding a fee schedule applicable to applications for 401 water quality certifications for removal activities of 500 cubic yards or greater, fill activities of two acres or greater and for application of salt in ski areas, as presented in Attachment A of the Department Staff Report.

Attachments

A. Rule (Amendments) Proposed for Adoption
B. Supporting Procedural Documentation:
   1. Legal Notice of Hearing
   2. Fiscal and Economic Impact Statement
   3. Land Use Evaluation Statement
   4. Questions to be Answered to Reveal Potential Justification for Differing from Federal Requirements
   5. Cover Memorandum from Public Notice
C. Presiding Officer's Report on Public Hearing
D. Department's Evaluation of Public Comment
E. Advisory Committee Membership and Report
F. Rule Implementation Plan
G. Senate Bill 1114

Reference Documents (available upon request)

Written Comments Received (Summarized in Attachment C)

Approved:

Section:

Division:

Report Prepared By: Tom Lucas

Phone: 229-6099

Date Prepared: October 1, 1998

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Attachment A

Division 48
Certification of Compliance with Water Quality Requirements and Standards

340-48-0200

(1) Many activities are required to have certification of compliance with section 401 of the Federal Clean Water Act. Some activities have fees associated with the certification process. Fees in this schedule will apply to removal of material described in section (5)(a), filling of material described in section (5)(b), and activities not otherwise classified described in section (5)(c), but excluding activities described in section (3).

(2) All fees shall be made payable to the Business Office, Oregon Department of Environmental Quality.

(3) Fees will not be charged for activities:
- (a) That have an operating permit for surface mining under ORS chapter 517;
- (b) Relating to commercial sand and gravel removal operations;
- (c) Involving removal of less than 500 cubic yards of material;
- (d) Involving a fill of less than two acres.

(4) The water quality certification fee may be refunded if either of the following conditions exist:
- (a) The Department determines that no certification will be required.
- (b) The Department determines that the wrong application has been filed.

(5) Water Quality Certification Fee Schedule.
- (a) Removal of Material:
  - (A) 500 cubic yards----------$500.
  - (B) Greater than 500 cubic yards----------$500 plus $.025 for each additional cubic yard of removal up to a maximum of $40,000.
- (b) Filling of material:
  - (A) 2 acres----------$500.
  - (B) Greater than 2 acres----------$500 plus $250 for each additional acre of fill up to a maximum of $40,000.
- (c) Activities not otherwise classified requiring detailed analyses prior to 401certification of compliance.
  - (A) Application of salt in ski areas----------$5,000.

(6) Only one water quality certification fee shall be applicable for a project which requires both removal of material and filling of material in the immediate area of the excavation. The highest fee shall apply.

Note: Example where only one fee will apply—removal of material for a trench followed by back filling of the trench.

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Attachment B

State of Oregon
Department of Environmental Quality

Rulemaking Proposal
for

Proposed amendments to Oregon Administrative Rules, Division 48, adding a fee schedule applicable to applications for certification of compliance with water quality requirements and standards for projects which are subject to federal agency permits or licenses (401 Water Quality Certifications)

Supporting Procedural Documentation

1. Legal Notice of Hearing
2. Fiscal and Economic Impact Statement
3. Land Use Evaluation Statement
4. Questions to be Answered to Reveal Potential Justification for Differing from Federal Requirements
5. Cover Memorandum from Public Notice

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ATTACHMENT B1

Secretary of State

NOTICE OF PROPOSED RULEMAKING HEARING

A Statement of Need and Fiscal Impact accompanies this form.

Department of Environmental Quality	Chapter 340-48-0200
Agency and Division	Administrative Rules Chapter Number
Susan Greco	(503) 229-5213
Rules Coordinator	Telephone
811 S.W. 6th Avenue, Portland, OR 97213	
Address	

September 9, 1998	2:00pm	Conference Room 5B	Tom Lucas
Hearing Date	Time	Location	Hearings Officer

Are auxiliary aids for persons with disabilities available upon advance request? Yes X No ☐

RULEMAKING ACTION

ADOPT: OAR 340-048-0200, Fee Schedule—Certification of Compliance with Section 401 of the Federal Clean Water Act.

AMEND:

REPEAL:

RENUMBER:

AMEND AND RENUMBER:

Stat. Auth.: ORS 468.020, Rules and Standards

Stats. Implemented: ORS 468.068, Fees for state certification under section 401 of Federal Water Pollution Control Act; disposition of fees.

RULE SUMMARY

The Department of Environmental Quality is proposing to assess fees for the regulatory activities associated with receiving, evaluating, and processing applications for 401 water quality certifications. The fee schedule would implement fees applicable to proposed fill projects, proposed removal projects, and proposed activities not otherwise classified such as application of salt in ski areas. Certain activities would be exempt from fees including activities that have an operating permit for surface mining under ORS chapter 517, activities relating to commercial sand and gravel operations, activities involving removal of less than 500 cubic yards of material, and activities involving a fill of less than two acres.

September 14, 1998
Last Day for Public Comment

Susan Greco 7/15/98
Authorized Signer and Date

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Attachment B-2

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal
for

Proposed amendments to Oregon Administrative Rules, Division 48, adding a fee schedule applicable to applications for certification of compliance with water quality requirements and standards for projects which are subject to federal agency permits or licenses (401 Water Quality Certifications)

Fiscal and Economic Impact Statement

Introduction

The overall degree of economic impact is expected to be minimal. The total revenue anticipated to be generated per biennium is approximately $160,000. The great majority of applicants for 401 water quality certifications will not pay any fee at all - of the approximately 1000 certifications actions taken by the Department each year, the proposed fee schedule will apply to about 60 projects only. The projects eligible for a fee will likely be a mix of small and large businesses. It is unlikely that any projects for individuals (for example a residence) will be fee eligible. The enabling legislation, Senate Bill 1114 passed by the 1997 Legislature, specifically exempts many activities, as follows:

- That have an operating permit for surface mining under ORS chapter 517;
- Relating to commercial sand and gravel operations;
- Involving removal of less than 500 cubic yards of material;
- Involving a fill of less than two acres.

The table below shows the proposed fees:

(a) Removal of Material[1]:
  (A) 500 cubic yards----------$500.
  (B) Greater than 500 cubic yards----------$500 plus $.025 for each additional cubic yard of removal up to a maximum of $40,000.

(b) Filling of material[1]:
  (A) 2 acres----------$500.
  (B) Greater than 2 acres----------$500 plus $250 for each additional acre of fill up to a maximum of $40,000.

(c) Activities not otherwise classified requiring detailed analyses prior to 401certification of compliance.
  (A) Application of salt in ski areas----------$5,000.

[1] One fee only shall be applicable for a project which requires both removal of material and filling of material in the immediate area of the excavation. The highest fee shall apply. Example—removal of material for a trench followed by back filling of the trench.

General Public
The general public may be indirectly impacted by the proposed fee schedule. Businesses and governments may pass the costs on to consumers in the form of marginally higher prices for goods or services. The potential price impact for consumers is expected to be very minimal.

Small Business
Small businesses may be negatively impacted if they are pursuing an excavation of 500 cubic yards or greater, or a fill two acres or greater. For example, for the construction of a commercial building or subdivision, the fee would depend of project size but could easily be in the range of $500 to $3,000. This fee would directly add to project costs. The fee relative to total project cost would generally be quite small. Of the approximately 60 eligible projects, it is estimated that about 10-15 would be associated with small businesses.

Large Business
Large businesses could be negatively impacted in the same way as small businesses. A large business applying for a certification for a project involving 30 acres of fill would pay $7,500. Again, this fee would directly add to project costs. The $7,500 fee relative to the costs of commercial construction on thirty acres would generally be quite small. Of the approximately 60 eligible projects, it is estimated that about 45-50 would be associated with large businesses.

Local Governments
Local governments would rarely pursue fill or removal activities that would even be eligible for a fee. The primary exception to this could be large scale dredging activities or large scale fill activities associated with a port district project, or a major public works project. A dredging project involving removal of one million cubic yards would result in a fee of about $25,000. A one hundred acre fill would also result in a fee of about $25,000. The maximum fee that could be charged would be $40,000.

State Agencies
The primary fiscal impact of this rule will be on the Department of Environmental Quality; however state agencies which pursue a relatively large removal or fill activity would be required to pay the fee. It is doubtful that any state agency projects would be large enough to be fee eligible, but if this were the case, it would probably be a highway related project handled by the Oregon Department of Transportation.

The Department anticipates receiving about $150,000 per biennium, which would pay for one technical staff person.

Housing Cost Impact Statement
The Department has determined that this proposed rulemaking may have a small effect on the cost of development of a 6,000 square foot parcel and the construction of a 1,200 square foot detached single family dwelling on that parcel. The housing cost could be affected if the project involves a fill or removal project that is fee eligible.

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ATTACHMENT B3

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal
for

Proposed amendments to Oregon Administrative Rules, Division 48, adding a fee schedule applicable to applications for certification of compliance with water quality requirements and standards for projects which are subject to federal agency permits or licenses (401 Water Quality Certifications)

Land Use Evaluation Statement

1. Explain the purpose of the proposed rules.

The proposed rule amendments would add a fee schedule to Oregon Administrative Rules, Division 48, Certification of Compliance with Water Quality Requirements and Standards. The fee schedule would implement fees applicable to applicants for 401 water quality certifications pertaining to proposed fill projects, proposed removal projects and proposed miscellaneous projects. Department authority to establish a fee schedule for these projects is Senate Bill 1114, passed by the 1997 Legislature. Senate Bill 1114 authorizes the Environmental Quality Commission to "establish by rule, a schedule of fees for state certification under section 401 of the Federal Water Pollution Control Act, PL 92-500, as amended." The senate bill also specifically exempts from assessment of fees certain activities, as follows:

(a) That have an operating permit for surface mining under ORS chapter 517;
(b) Relating to commercial sand and gravel operations;
(c) Involving removal of less than 500 cubic yards of material;
(d) Involving a fill of less than two acres.

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? X Yes ☐ No

a. If yes, identify existing program/rule/activity:

These rules relate to "Certification of Water Quality Standards Federal Permits, Licenses" (OAR 340-18-030) which has been determined to be a DEQ land use program. The sole purpose of the proposed rule amendments is to establish fees which will not directly impact land use.

b. If yes, do the existing statewide goal compliance and local plan compatibility procedures adequately cover the proposed rules? X Yes ☐ No

The issuance of 401 water quality certifications requires a land use compatibility review and written approval by the affected local government. This procedure does not relate to this rulemaking which addresses funding needs for processing applications in a timely manner and for performing an adequate review of potential environmental impacts from a proposed project.

Division	Intergovernmental Coordinator	Date
		7/13/98

Attachment B-4

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
Rulemaking Proposal
for

Proposed amendments to Oregon Administrative Rules, Division 48, adding a fee schedule applicable to applications for certification of compliance with water quality requirements and standards for projects which are subject to federal agency permits or licenses (401 Water Quality Certifications)

Questions to be Answered to Reveal Potential Justification for Differing from Federal Requirements.

1. **Are there federal requirements that are applicable to this situation? If so, exactly what are they?**
Section 401 of the federal Clean Water Act requires States to issue a certification of compliance with water quality requirements and standards for projects which are subject to federal agency permits or licenses and which may result in any discharge into navigable waters or impact water quality (401 Water Quality Certifications). The Department of Environmental Quality is the state agency which reviews and evaluates applications, and issues or denies the 401 water quality certification.

   The proposed amendments to Oregon Administrative Rules, Division 48, adding a fee schedule applicable to applications for 401 Water Quality Certifications is consistent with federal certification requirements.

2. **Are the applicable federal requirements performance based, technology based, or both with the most stringent controlling?**

   Not applicable.

3. **Do the applicable federal requirements specifically address the issues that are of concern in Oregon? Was data or information that would reasonably reflect Oregon's concern and situation considered in the federal process that established the federal requirements?**

   Not applicable.

4. **Will the proposed requirement improve the ability of the regulated community to comply in a more cost effective way by clarifying confusing or potentially conflicting requirements (within or cross-media), increasing certainty, or preventing or reducing the need for costly retrofit to meet more stringent requirements later?**

   Not applicable.

5. **Is there a timing issue which might justify changing the time frame for implementation of federal requirements?**

   No.

6. **Will the proposed requirement assist in establishing and maintaining a reasonable margin for accommodation of uncertainty and future growth?**

   Not applicable.

7. **Does the proposed requirement establish or maintain reasonable equity in the requirements for various sources? (level the playing field)**

   Not applicable.

8. **Would others face increased costs if a more stringent rule is not enacted?**

   Not applicable.

9. **Does the proposed requirement include procedural requirements, reporting or monitoring requirements that are different from applicable federal requirements? If so, Why? What is the "compelling reason" for different procedural, reporting or monitoring requirements?**

   No.

10. **Is demonstrated technology available to comply with the proposed requirement?**

    Not applicable.

11. **Will the proposed requirement contribute to the prevention of pollution or address a potential problem and represent a more cost effective environmental gain?**

    Not applicable.

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Attachment B-5

State of Oregon
Department of Environmental Quality — Memorandum

Date: August 4, 1998.

To: Interested and Affected Public

Subject: Rulemaking Proposal and Rulemaking Statements - Proposed amendments to Oregon Administrative Rules Chapter 340, Division 48, adding a fee schedule applicable to applications for certification of compliance with water quality requirements and standards for projects which are subject to federal agency permits or licenses (401 water quality certifications)

This memorandum contains information on a proposal by the Department of Environmental Quality (Department) to adopt rule amendments by adding a fee schedule to Division 48, Certification of Compliance with Water Quality Requirements and Standards. The fee schedule would implement fees applicable to applicants for 401 water quality certifications pertaining to proposed fill projects, proposed removal projects and proposed miscellaneous projects.

Department authority to establish a fee schedule for these projects is Senate Bill 1114, passed by the 1997 Legislature. Senate Bill 1114 authorizes the Environmental Quality Commission to "establish by rule, a schedule of fees for state certification under section 401 of the Federal Water Pollution Control Act, PL 92-500, as amended." The senate bill also specifically exempts from assessment of fees certain activities, as follows:

(a) That have an operating permit for surface mining under ORS chapter 517;
(b) Relating to commercial sand and gravel operations;
(c) Involving removal of less than 500 cubic yards of material;
(d) Involving a fill of less than two acres.

The proposed fee schedule is attachment D.

Pursuant to ORS 183.335, this memorandum also provides information about the Environmental Quality Commission's intended action to adopt a rule.

What's in this Package?

Attachments to this memorandum provide details on the proposal as follows:

Attachment A	The official statement describing the fiscal and economic impact of the proposed rule. (required by ORS 183.335)
Attachment B	A statement providing assurance that the proposed rules are consistent with statewide land use goals and compatible with local land use plans.
Attachment C	Questions to be Answered to Reveal Potential Justification for Differing from Federal Requirements.
Attachment D	The actual language of the amendments.
Attachment E	Members of 401 Water Quality Certification Fee Advisory Committee.
Attachment F	Rule Implementation Plan.

Memo To: Interested and Affected Public
Proposed Fees for 401 Water Quality Certifications

Hearing Process Details

The Department is conducting a public hearing at which comments will be accepted either orally or in writing. The hearing will be held as follows:

Date: September 9, 1998.
Time: 2:00 p.m.
Place: Conference Room 3A, Oregon Department of Environmental Quality Headquarters, 811 S.W. Sixth Avenue, Portland, Oregon.

Deadline for submittal of Written Comments: 5:00 p.m., September 14, 1998.

Tom Lucas will be the Presiding Officer at the hearing.

Written comments can be presented at the hearing or to the Department any time prior to the date above. Comments should be sent to: Department of Environmental Quality, Attn: Tom Lucas, 811 S.W. 6th Avenue, Portland, Oregon 97204.

In accordance with ORS 183.335(13), no comments from any party can be accepted after the deadline for submission of comments has passed. Thus if you wish for your comments to be considered by the Department in the development of these rules, your comments must be received prior to the close of the comment period. The Department recommends that comments are submitted as early as possible to allow adequate review and evaluation of the comments submitted.

What Happens After the Public Comment Period Closes

Following close of the public comment period, the Presiding Officer will prepare a report which summarizes the oral testimony presented and identifies written comments submitted. The Environmental Quality Commission (EQC) will receive a copy of the Presiding Officer's report. The public hearing will be tape recorded, but the tape will not be transcribed.

The Department will review and evaluate the rulemaking proposal in light of all information received during the comment period. Following the review, the rules may be presented to the EQC as originally proposed or with modifications made in response to public comments received.

The EQC will consider the Department's recommendation for rule adoption during one of their regularly scheduled public meetings. The targeted meeting date for consideration of this rulemaking proposal is October 29, 1998. This date may be delayed if needed to provide additional time for evaluation and response to testimony received in the hearing process.

You will be notified of the time and place for final EQC action if you present oral testimony at the hearing or submit written comment during the comment period. Otherwise, if you wish to be kept advised of this proceeding, you should request that your name be placed on the mailing list.

Memo To: Interested and Affected Public
Proposed Fees for 401 Water Quality Certifications

Background on Development of the Rulemaking Proposal

Why is there a need for the rule?
The Department does not now charge fees, with the exception of certification activities related to hydroelectric projects, for the regulatory activities associated with receiving, evaluating, and processing applications for 401 water quality certifications. About one thousand 401 certification actions were performed by Department staff in 1997, and slightly more than one full-time person was assigned to this work. This staffing level is inadequate—it is not possible to respond to applications in a timely manner, and it is not possible to perform an adequate review of potential environmental impacts from a proposed project. The rule amendments would result in revenues sufficient to fund an additional full-time position. This addition of staff would improve service to applicants and would provide for improved environmental protection.

How was the rule developed?
The Department developed the proposed schedule after reviewing the work necessary to thoroughly review applications in a timely manner, and then evaluating the staffing needs to perform this work. An advisory committee was formed for review of proposed fees. Affirmative advisory committee consensus was reached regarding the fee schedule structure and amount of fees by category, see Attachment D for the actual schedule.

Whom does this rule affect including the public, regulated community or other agencies, and how does it affect these groups?
The proposed fee schedule affects applicants for 401 water quality certification fees for proposed fill projects, proposed removal projects and proposed miscellaneous projects. As noted above many activities are exempted from fees, including activities:

(a) That have an operating permit for surface mining under ORS chapter 517;
(b) Relating to commercial sand and gravel operations;
(c) Involving removal of less than 500 cubic yards of material;
(d) Involving a fill of less than two acres.

In addition, the Department is not proposing to establish fees for 401 water quality certifications related to grazing activities.

Most applicants will be private firms that first apply for a 404 dredge and fill permit from the Division of State Lands or the Corps of Engineers. In addition, local governments and state and federal agencies occasionally apply for a 404 dredge and fill permit. In a very few situations, application will be made for a 401 water quality certification that does not involve a 404 dredge and fill permit - these applications will normally be from private companies.

The proposed fee schedule would have a negative economic impact in that the fee amount will directly increase expenses for a particularly project. Since the fee schedule will result in more resources to process applications, there should be a positive impact insofar as applications should be processed more quickly than is now the case.

How will the rule be implemented?
Applicants interested in receiving permits for activities requiring a 401 water quality certification normally contact the Division of State Lands (DSL) or the Corps of Engineers. The applicant obtains an application for a 404 dredge and fill permit. After a completed application for the 404 permit is received, the Corps or DSL put out a public notice and, at the same time, mail the application and notice to DEQ. DEQ staff will evaluate the application and will establish the appropriate fee. The applicant will be invoiced by mail for the fee amount, along with notification that the application for a 401 water quality certification cannot be processed until the fee is paid. Applicants for a

401 water quality certification that does not include a 404 dredge and fill permit will need to contact DEQ directly. DEQ staff will assess the appropriate fee and send an invoice to the applicant.

Are there time constraints?
The proposed fee schedule needs to be adopted as soon as possible so an additional staff person can be hired to help process applications for 401 water quality certifications.

Grazing Activities
Because of a recent court decision the Department is now processing applications for 401 water quality certifications for grazing activities on Bureau of Land Management and U.S. Forest Service lands. **The proposed fee schedule does not include fees for this activity.** The Department may propose fees when litigation is completed and after a determination is made as to the regulatory work load that will be needed to perform applicant evaluations and issue certifications. In addition, since several agencies are involved in issuing permits and certifications, a determination will have to be made as to which agency will perform the necessary work.

Contact for More Information

If you would like more information on this rulemaking proposal, or would like to be added to the mailing list, please contact:

Tom Lucas
Water Quality Division
Oregon Department of Environmental Quality
Portland, OR 97204.

Phone (503) 229-6099.

This publication is available in alternate format (e.g. large print, Braille) upon request. Please contact DEQ Public Affairs at 503-229-5317 to request an alternate format.

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Attachment C

State of Oregon
Department of Environmental Quality Memorandum

Date: September 11, 1998

To: Environmental Quality Commission

From: Tom Lucas

Subject: Presiding Officer's Report for Rule making Hearing
Hearing Date and Time: September 9, 1998, beginning at 2:00 p.m.
Hearing Location: Conference Room 5B, DEQ Headquarters
Title of Proposal: Proposed amendments to Oregon Administrative Rules, Chapter 340, Division 48, adding a fee schedule applicable to applications for certification of compliance with water quality requirements and standards for projects which are subject to federal agency permits or licenses (401 water quality certifications).

The rule making hearing on the above titled proposal was convened at 2:10 . 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.

One person was in attendance, One person signed up to give testimony.

Prior to receiving testimony, Tom Lucas explained the specific rule making proposal, the reason for the proposal, and responded to questions from the audience.

Summary of Oral Testimony

1. Michael Gaul offered oral testimony for the Port of Coos Bay. The Port of Coos Bay is strongly opposed to the proposed 401 certification fees. The Port believes that DEQ should pay for additional resources using existing funding sources such as federal grants or State general funds. The Port expressed that EPA has encouraged DEQ to use federal grant funds for 401 certification activities. The Port further noted that local governments were often short on funds or expected to perform additional or unexpected activities and that DEQ should be able to do this without imposing fees.

There was no further testimony and the hearing was closed at 3:00 p.m.

Written Testimony

No written testimony was handed in at the hearing.

Written testimony submitted and included in the hearing record is summarized as follows:

1. Teresa Morse, holder of a 401 certification for grazing, Enterprise. Ms. Morse suggested that a low fee, such as $15, for certification of grazing activities would not be an unreasonable burden to permit holders. She asked if the proposed fee schedule could be lowered now that grazing certifications are no longer required, i.e., would an additional full-time employee still be necessary?

2. Wally Johnson, Oregon Shores Conservation coalition, North Bend. Mr. Johnson expressed that the fees for 401 certification activities should be set at a level that reflects costs in the private sector and which the user pays for the regulatory costs involved. He also suggested that any monitoring costs should be paid for by the applicant and that a special fund be established to purchase properties that would benefit the State.

3. Michael Gaul, Port of Coos Bay. The Port of Coos Bay is strongly opposed to the establishment of 401 water quality certification fees. The Port believes that other agencies involved in the 401 certification process do not charge fees. The Port also believes that DEQ could use EPA grant funds, and that EPA has recommended this. Further, the Port believes that DEQ can perform the necessary work through existing staff. The Port also asked the following questions: what is the present backlog of certification request; what is the present process time; what is the targeted process time; and why were exemptions granted? Mr. Gaul also offered oral testimony (see Attachment C).

4. Jim Kimberling, Malheur County. Malheur County supports the establishment of fees for 401 certification activities but believe that the eligibility threshold should be raised so that only the larger more complex projects would pay a fee. The County recommended that the minimum project size be 4 acres or greater for a fill activity and 1000 cubic yards or greater for a removal activity, or alternatively that the minimum fee be lowered, e.g., $100.

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Attachment D

Department's Evaluation of Public Comment

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
Rulemaking Proposal
for

Proposed amendments to Oregon Administrative Rules, Division 48, adding a fee schedule applicable to applications for certification of compliance with water quality requirements and standards for projects which are subject to federal agency permits or licenses (401 Water Quality Certifications)

Testimony

One person provide oral testimony, and four persons provided written testimony; this testimony is summarized in Attachment C.

Response to Testimony

Comment: (Teresa Morse--Enterprise) Since 401 certifications for grazing will no longer be necessary (recent court decision), is an additional full-time employee still necessary?

Response: The Department currently has one full time staff person (one FTE) available for 401 certification activities, exclusive of activities related to grazing certifications. In 1997 this position performed about 1,000 certification actions. One FTE is insufficient for DEQ to properly perform this regulatory activity, particularly in the evaluation of large and complex project applications which require substantial analysis and field evaluations. The addition of an additional staff person will provide the opportunity to do the necessary field evaluations and to issue certifications which are more protective of the environment.

Comment: (Oregon Shores Conservation Coalition) The applicant should pay for all the regulatory costs involved in 401 water quality certifications, including additional costs for monitoring.

Response: Currently the costs for 401 certification activities is paid for by State general funds. If the proposed fee schedule is adopted by the Environmental Quality Commission, activities will be about 50% fee supported and 50% general fund supported. This split, 50/50, is roughly equivalent to the funding used for 402 NPDES permits. Additional costs, such as for monitoring, can be supported by DEQ monitoring and lab staff or by the project applicant. DEQ has required applicant monitoring for some projects through the conditions contained in a 401 project certification.

Comment: (Malheur County) The eligibility threshold is too low (500 cubic yards for removal, 2 acres for a fill). Raise the threshold so that so that only the larger, more complex projects pay a fee, or alternatively, lower the minimum fee substantially.

Response: Projects at the existing statutorily imposed threshold often require substantial analysis and field work by Department staff. The $500 minimum "pays" for about 10 hours of direct staff time plus clerical support. The Department does not believe the minimum fee is too high for this work. The Department agrees that larger, more complex projects do involve more work than those at the statutory minimum. The fee schedule for fill and removal projects was set up as a "sliding scale" to charge more as the project size would increase.

Comment: (Port of Coos Bay) DEQ should not charge fees for 401 certification activities because other funding sources such as EPA grant funds could be used, other agencies doing related work do not impose fees, and DEQ should be able to perform additional or unexpected activities using existing agency funds.

Response: The commenter is correct in that the Department receives and uses EPA grant funds. The EPA grant funds are sometimes specifically earmarked for certain agreed on projects, or are used for other very high priority work such as permit issuance and compliance/enforcement activities. As noted above, related work such as 402 permits are paid for by a combination of grants, general funds and fees, with fees accounting for about 50% of the needed revenue. The fees for 401 certifications will also amount to about 50% of the needed revenue. The Oregon Legislature authorized the Department to establish fees for 401 certification activities, rather than allocate additional State general funds for these activities. Regarding other agencies, the comparable state agency is the Division of State Lands (DSL). DSL does charge fees for the related 404 dredge and fill permit issuance activities. Regarding the additional or unexpected work, the Department believes that 401 certification activities are ongoing work that should have an adequate funding base to ensure that the work is accomplished correctly and in a timely fashion.

Comment: (Port of Coos Bay) What is the present backlog of certifications; what is the present process time; what is the targeted process time; and why were exemptions granted?

Response: Processing times and backlogs vary by season but generally the summer is the most critical time for receiving and issuing 401 water quality certifications. During the summer 1998 the Department reviewed over 200 applications for 401 water quality certifications. Thirty projects, about 15% of the applications, were backlogged over 60 days prior to issuance of a 401 water quality certification. Average processing time was about one month. With the addition of a second staff person, average processing time can be dropped to about two weeks. More importantly, however, is that the quality of the certifications can be improved. Essential field work can be completed and certifications can be issued with conditions that will be protective of the environment and which can give the applicant a level of comfort that the subsequent activities will be environmentally protective.

Regarding the granting of exemptions—these were made by the 1997 legislature as a part of the negotiation and decision making process leading to the enactment of the statute. If the exemptions were not in place, there is no question that the fee schedule would generally be broader and with lower fees. Different exemptions would undoubtedly result in yet a different fee schedule.

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Attachment E

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
Rulemaking Proposal
for

Proposed amendments to Oregon Administrative Rules, Division 48, adding a fee schedule applicable to applications for certification of compliance with water quality requirements and standards for projects which are subject to federal agency permits or licenses (401 Water Quality Certifications)

Members of 401 Water Quality Certification Advisory Committee

Julie Bunnell
Oregon Department of Transportation
Transportation Building
355 Capital Street, NE
Salem, OR 97310

Earl Johnson
Division of State Lands
775 Summer Street, NE
Salem, OR 97310

Byron Blankenship
US Army Corps of Engineers
CENWP-CO-G
PO Box 2946
Portland, OR 97208

John Jackson
Unified Sewerage Agency
155 North First Street, Suite 270
Hillsboro, OR 97201

Lynn Sharpe
Woodward-Clyde
111 SW Columbia
Portland, OR 97204

Lolita Carter
Portland General Electric
121 SW Salmon Street
Portland, OR 97204

Jean Underhill-Wilkinson
Oregon Cattlemen's Association
3415 Commercial Street, SE
Salem, OR 97302

Advisory Committee Recommendations

An advisory committee was formed to review proposed fee schedules and issues related to fees. The committee met five time from late October 1997 through March 1998. They reviewed several drafts of various types of schedules, with varying fee amounts.

At the March 31, 1998, meeting, the committee supported the schedule shown in attachment A. The committee expressed that DEQ should be able to recover costs for regulatory activities associated with 401 water quality certifications, but noted that the agency should do a much better job in justifying fees. In particular, committee members believed that specific projects should be tracked so that the amount of time required for types of projects could be clearly documented, and that the schedule should be adjusted in the future to reflect the updated information. The committee was also concerned about charging twice for the same project. For example, a single project might involve both removal of material and subsequent filling of material. The Department generally would evaluate the filling and removing of material together. An example would excavation for a trench and back-filling the trench. The committee recommended that only one fee be charged for two related activities in the same area.

The Department accepted the 401 Fee Committees recommendations, with one revision. The recommendation to apply only one fee for two related project activities in the "same area", was changed to "immediate area."

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Attachment F

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
Rulemaking Proposal
for

Proposed amendments to Oregon Administrative Rules, Division 48, adding a fee schedule applicable to applications for certification of compliance with water quality requirements and standards for projects which are subject to federal agency permits or licenses (401 water quality certifications).

401 Water Quality Certification Fee--Rule Implementation Plan

Summary of the Proposed Rule

- This rule amendment is a fee schedule to cover the costs of the Department's regulatory activities associated with receiving, evaluating, and processing applications for 401 water quality certifications. The fee schedule encompasses three fee categories: 1) removal of material, 2) Filling of material, and 3) Activities not otherwise classified.
- Fees are not charged for activities exempted by statute (Senate Bill 1114), including activities:
    - That have an operating permit for surface mining under ORS chapter 517.
    - Relating to commercial sand and gravel removal operations.
    - Involving removal of less than 500 cubic yards of material.
    - Involving a fill of less than two acres.
- Fees for applications pertaining to removal of material and for filling of material start at $500. Fees increase for additional cubic yards removed and acres filled. The maximum fee for any project cannot exceed $40,000. One fee only shall be applicable for a proposed project which requires both removal of material and filling of material in the immediate area of excavation. An example would be a project that would remove material for a trench followed by backfilling of the trench. In this case the highest fee would apply.
- Fees for projects not otherwise classified is $5,000. This fee category is restricted to applications for 401 water quality certifications for salting of ski areas.

Proposed Effective Date of the Rule

- November 13, 1998 is the proposed effective date of this fee schedule.

Proposal for Notification of Affected Persons

- Mailing of proposed amendments to broad water quality program mailing list.
- Public Hearings
- Publishing notice in Secretary of State Bulletin of proposed amendments.
- Posting entire rulemaking package on DEQs web page on the Internet
- News releases to statewide media outlets

Proposed Implementing Actions

Actions related to implementing a fee schedule include notification, assessing, invoicing and receipt of fees and technical assistance to applicants.

- **Notification.**

Applicants interested in receiving permits for activities requiring a 401 certification rarely contact DEQ directly for information. Instead they contact either the Division of State Lands (DSL) or the Corps of Engineers (Corps). These agencies are responsible for necessary 404 dredge and fill permit issuance. The applicant obtains a joint permit

application from either of these agencies. The Department will prepare a fact sheet regarding the DEQ fee and attach to the fact sheet the actual fee schedule. This information will be included in the application packet sent by the Corps or DSL. In this way the applicant will know before the application is submitted that a fee will need to be paid to DEQ. The fact sheet will include a sample fee calculation, procedure for paying the fee, and a phone number at DEQ in the event there are questions.

- **Assessing the fee.**

After the Corps or DSL receives a completed application, they put out a public notice, including DEQ's public notice. DEQ receives the public notice and a copy of the application from either the Corps or DSL. DEQ will evaluate the application and will establish the appropriate fee. Discussions between DEQ staff and the applicant may be necessary to correctly assess the fee. The proposed fee and permit identifier number will be entered into the DEQ 401 certification data base.

- **Invoicing.**

The clerical staff person responsible for entering information into the data base will forward the fee amount, identifier number, and applicant name and address to the DEQ Business Office. The Business Office will invoice the fee. Once the fee is received the Business Office will deposit the fee in an appropriate fund.

- **Technical assistance.**

DEQ staff assigned to 401 water quality certifications will provide technical assistance by answering questions and in calculating the fee when requested. As noted above, the fee schedule, an explanatory fact sheet, and a phone number will be included in the initial application packet. The applicant will be encouraged to call if their are questions.

Proposed Training/Assistance Actions

DEQ staff training will not be necessary. Positions already responsible for invoicing and receiving fees will be utilized. Staff familiar with the fee schedule and types of projects will be available to provide assistance to applicants.

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Attachment G

69th OREGON LEGISLATIVE ASSEMBLY--1997 Regular Session

Enrolled

Senate Bill 1114

Sponsored by COMMITTEE ON LIVABILITY
(at the request of Associated Oregon Industries)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Allows Department of Environmental Quality to enter into agreements with applicants, permittees and regulated entities for receipt of actual cost of services in place of set fee. Allows department to contract with third parties to provide services. Allows department to establish fees for certification under federal law. Exempts certain fill and removal activities from fee requirements.

A BILL FOR AN ACT

Relating to the Department of Environmental Quality; and appropriating money.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Sections 2 to 4 of this Act are added to and made a part of ORS chapter 468.

SECTION 2. (1) The Department of Environmental Quality may enter into an agreement with any applicant, permittee or regulated entity setting a schedule of payments to the department for the purpose of enabling the department to expedite or enhance a regulatory process by contracting for services, hiring additional staff or covering costs of activities not otherwise provided during the ordinary course of department business. The department may expend moneys received under the agreements for:

(a) Activities undertaken by the department under authority of any provision of ORS chapters 448, 453, 454, 459, 459A, 465, 466, 467, 468, 468A and 468B and ORS 475.405 to 475.495.

(b) Administering and reviewing activities described under subsection (3) of this section that are performed by a third party.

(2) Payments agreed to under subsection (1) of this section shall be for services voluntarily requested by the applicant, permittee or regulated entity. As part of the agreement, the department may waive all or part of any fee otherwise imposed for those services. The department shall not alter or establish processing priorities or schedules based upon an expectation of entering into an agreement under subsection (1) of this section.

(3) Not later than July 1, 1998, the department shall identify department activities or portions thereof suitable for contracting out to third parties. Failure of the department to identify a specific activity shall not prevent the expenditure of funds for that activity or for department administration and review of that activity under an agreement entered into pursuant to subsection (1) of this section.

(4) Any moneys received by the department under an agreement described under subsection (1) of this section shall not exceed the cost to the department of providing the service to the applicant, permittee or regulated entity.

SECTION 3. (1) The Environmental Quality Commission may establish, by rule, a schedule of fees for state certification under section 401 of the Federal Water Pollution Control Act, PL 92-500 as amended. The commission shall not assess fees under this section for activities:

(a) That have an operating permit for surface mining under ORS chapter 517;

(b) Relating to commercial sand and gravel removal operations;

(c) Involving removal of less than 500 cubic yards of material;

or

(d) Involving a fill of less than two acres.

(2) As used in this section, 'fill' and 'removal' have the meanings given in ORS 196.800.

SECTION 4. (1) Any payments received under an agreement described under section 2 of this 1997 Act shall be deposited in the State Treasury to the credit of an account of the Department of Environmental Quality and are continuously appropriated for the purposes specified in the individual agreements.

(2) Any fees received under section 3 of this 1997 Act shall be deposited in the State Treasury to the credit of an account of the Department of Environmental Quality and are continuously appropriated to meet the administrative expenses of the state certification program under section 3 of this 1997 Act.

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Department of Environmental Quality
Memorandum

DATE: December 11, 1998

TO: Environmental Quality Commission

FROM: Langdon Marsh, Director

RE: Director's Report

Underground Storage Tank Deadline/Enforcement Update

When the Underground Storage Tank program began 12 years ago there were almost 30,000 tanks at 10,000 locations throughout Oregon. Those numbers are down to about 9,000 tanks at 3,260 facilities. As a result of those 20,000 tanks being decommissioned, 5,500 releases of produce were discovered, of which 2,635 sites have been clean up and the balance are in some stage of cleanup.

The 10-year-old federal deadline for upgrade of gasoline storage tanks is December 22nd. Many service stations in Oregon will not meet that deadline for upgrading their tanks and around 500 will close permanently. Under Oregon law, service stations which have not upgraded their tanks by this deadline, cannot receive product. DEQ will, however, allow dispensing of existing product in tanks up to 90 days after the deadline, to assure that most product doesn't remain in the tanks when stations close. After that date, all tanks need to be decommissioned and properly closed.

Clean Air Action Day Employer Program Survey Results

This summer, DEQ used a prize drawing as an incentive to receive information about what local residents do to reduce ozone emissions on Clean Air Action Days. Prize drawing entry forms were distributed to employees at over 400 Portland-Vancouver area businesses that are part of the CASD action day Employer Program. Entry forms were completed by 2,877 employees. Seventy-three percent said they drove less; sixty-seven percent said they postponed or consolidated non-working trips; fifty-three percent said they used alternatives to aerosol sprays; forty-one percent reduced or eliminated use of high odor paints or cleaning products; and twenty-nine percent used an alternative to gas powered equipment (electric or push mowers).

Proposed TMDL for Sucker-Grayback

A water quality improvement plan prepared by the Siskiyou National Forest, the Bureau of Land Management, DEQ and other agencies is being proposed as a TMDL. The plan builds upon the type of cooperative and effective solutions outlined in the Governor's Oregon Plan for Salmon and Watersheds. The streams addressed by the Sucker-Grayback Management Plan are listed on the 303(d) list because they exceed state water quality standards for temperature, flow modification and habitat modification. The plan concludes that non-point source pollution is the reason for the water quality problems. A public hearing on the plan was held in Cave Junction and comments will be taken from the public through January 15th.

TMDL Approved for Columbia Slough

On November 25, EPA Region X approved the Total Maximum Daily Loads (TMDLs) developed for the Columbia Slough. The TMDLs address the following parameters; bacteria, dissolved oxygen, pH and nutrients, and toxics. The TMDLs identify the loading capacity of the Slough for each of the pollutants and allocates that capacity to the sources so that water quality standards are not violated. The next steps include; issuance of a permit for the Port of Portland for de-icing and anti-icing activities, development of a pollutant specific industrial storm water permit, and agreements with the municipalities to implement pollutant specific management practices.

Septage Management (pumpings from septic tanks and holding tanks)

The issue of septage management in Jackson and Josephine County was raised at the June EQC meeting in Medford. Since that time, DEQ staff have worked with the Environmental Health officials of both counties, who have developed a voluntary reporting agreement with septage pumpers who serve the area. DEQ restated its commitment to take enforcement action against anyone found to be illegally dumping septage.

The majority of septage from the two counties currently goes to a treatment plan in Grants Pass operated by Clearwater Technologies. Treatment is based upon separation of solids with liquids passing through to a conventional sewage plant. Solids are landfilled but with further stabilization could be land applied. Other businesses in the area, and statewide, treat septage using lime stabilization method and utilize product for agronomic land application. Clearwater has proposed an ordinance in both counties to franchise septage hauling and treatment, and has drafted proposed legislation that would mandate selected treatment methods (filtration) of septage statewide.

Lane County Agencies Sign Pollution Prevention Agreement.

A new P2 committee in Lane County, consisting of several public agencies (including DEQ) recently signed a memorandum of agreement that makes them eligible to receive P2 grant funds. The first project, already funded, is for informational displays for the public on pollution prevention ideas. Their next project is to address pollution prevention practices at agency auto fleets (washwater, use of toxics, etc.). Also, the Eugene Register Guard newspaper will be featuring a monthly article on solid waste reduction, written by various agencies. DEQ will be writing the first one.

Warehouse Hazard

DEQ estimates it will take two to four months to clean up the approximately 10,000 containers of various chemicals, including acids, caustics, cyanide, electroplating waste, oxidizers, water-reactives and explosives at a warehouse in NE Portland. Police initially entered the warehouse to respond to a dispute between tenants. They found over a dozen people living in the warehouse. After police observed the containers, the Hazmat Team called in DEQ. After investigating the warehouse, DEQ contacted the EPA Emergency Response Unit in Seattle, which performs time-critical cleanup and removal actions in extreme situations. Federal warrants were executed at the facility and administrative warrants allowed the EPA team to remove chemical hazardous wastes. The warehouse and it's owner are under intensive investigation.

Oregon 1997 Recycling Rate Highest Ever

Every year DEQ's Solid Waste Program surveys garbage haulers and private recycling companies and compiles disposal data from fee report forms. Results of the 1997 Material Recovery Survey show Oregon's recycling rate climbing to 35.7 percent. This is the highest rate recorded in six years. While Oregonians recycled more materials in 1997, they continued to generate more waste and at a faster rate than they increased their recycling.

Reports to the Legislature

Four reports on Waste Management and Cleanup activities are being provided to the Oregon Legislature. The Reports are described in the attachment to this report. They are the Solid Waste Legislative Report, the Underground Storage Tank Financial Assistance Report, the Environmental Cleanup Report and the Dry Cleaner Program Report.

A Report on the Green Permits Program is also available. The Green Permits Program was established to encourage facilities to use innovative environmental approaches or strategies to achieve environmental performance that is significantly better than otherwise required by law. Copies are available if EQC members want one. Please contact Kitty Purser.

Portland Harbor/Ross Island

DEQ signed an agreement with the Portland Harbor group, which will allow the Department to move forward to plan the Harbor cleanup, as well as determine how to dispose of sediments. The Department will finish work by Spring of 1999.

In a related issue, Ross Island Sand and Gravel reported that bathymetric maps of their lagoon indicated that sites which had received dredging waste from the Portland of Portland had been disturbed by subsequent gravel dredging at the Ross Island Site. The company committed to recovering the disposal site and determining if any harm resulted to . DEQ continues to examine where the disturbed wastes were placed.

Employee recognition

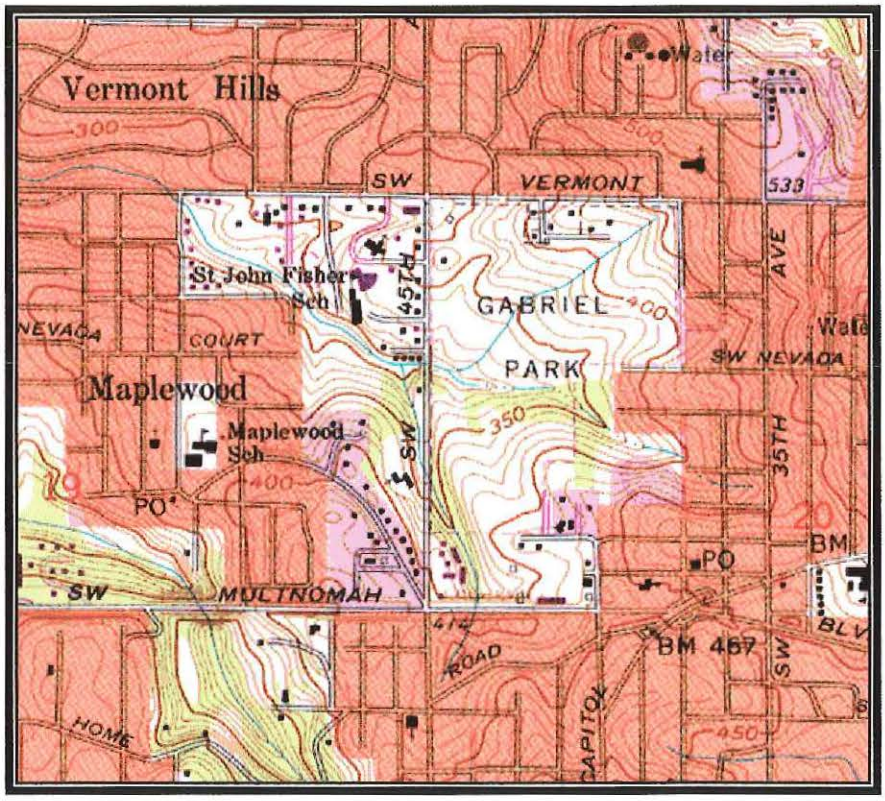
Gary Messer, Air Quality Manager in the Western Region, has recently completed 25 years of service at DEQ. Gary is the last of the original three DEQ'ers who opened the Salem Office in 1973 and has worked in or with most DEQ medias during that time. With decentralization in late 1993, Gary was selected for the Air Quality Manager's position and subsequently received a first place Governor's award in 1995 for his work in utilizing performance measures to eliminate the permit backlog in Air Quality permits. The morale and productivity of Gary's workgroup has been consistently among the highest at DEQ in the last five years and Gary has been one of DEQ's most innovative problem solvers. Last year, Gary helped a successful transition of the Field Burning program to the Oregon Department of Agriculture, and played a key role in the development and implementation of the Air Quality Strategic Plan.

Chemical Waste Management of the Northwest wrote commending DEQ Employees Gary Calaba, Rich Duval, Brett McKnight, Mary Wahl and especially Anne Price. The company wrote that they were very impressed by the prompt and effective actions taken by DEQ employees and the EQC in October to prepare and adopt a temporary rule to avoid regulatory confusion for Oregon businesses in complying with the hazardous waste management program. The EPA had adopted a rule revising the predisposal treatment requirements in the federal hazardous waste management program. This rule conflicted with an existing Oregon rule. The Department immediately took action to create and have the EQC adopt a temporary rule to deal with this conflict.

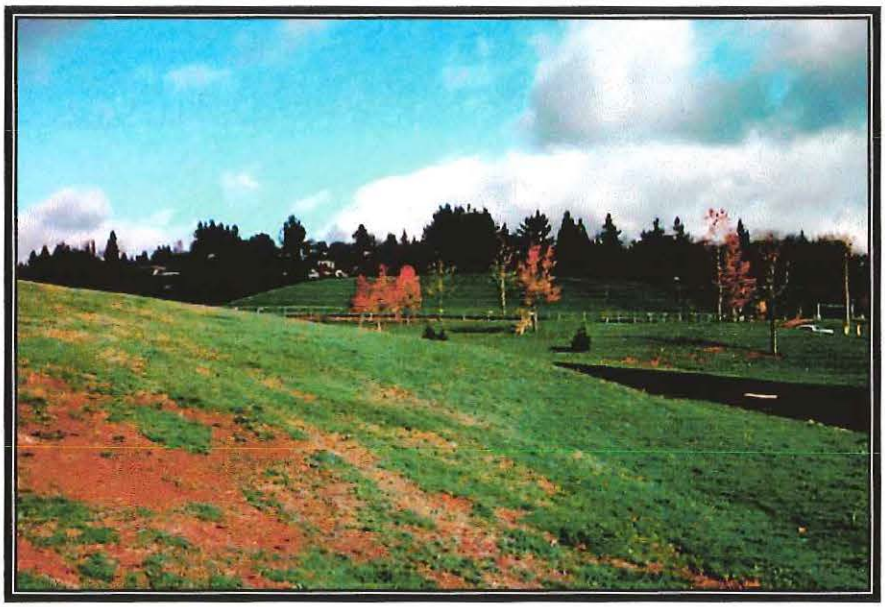
O.J. "Bud" Roman's suggestion was selected as the most innovative approach to saving time, dollars or improving customer services from the Employee Suggestions Awards Commission. Bud suggested decommissioning underground storage tanks and using them to store water for fighting fires.

Gabriel Park Report

11 December 1998



This report is provides an update on the present environmental status of the erosion control efforts at Gabriel Park. Dennis Jurries from Northwest Region has made three visits to the site since September 15, 1998. The visits have been during and just after rain showers. Construction personnel at the site have been very responsive to suggestions for improvement and have generally implemented the suggestions while Dennis was on Site. Russ Tilander a Building Inspector from the City of Portland Bureau of Buildings has been on site two of these visits. This department investigates and makes recommendations concerning construction erosion control for the City. On December 4th Robert Baumgartner accompanied Dennis for a visit.

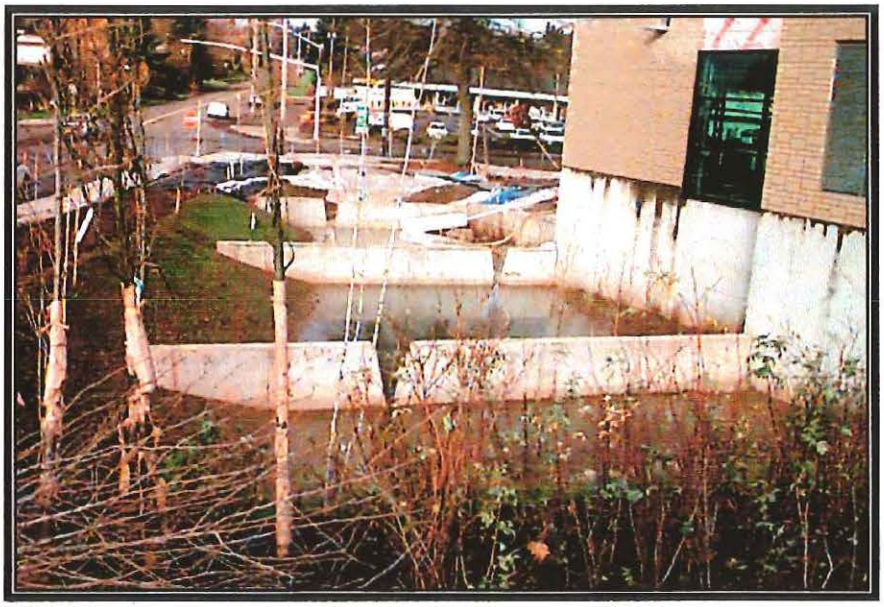


The hills that have been disturbed have been seeded and the grass is developing nicely. Erosion from these hills is not evident.

The stormwater conveyance ditches along 45th Avenue have been seeded and the grass is doing well. Runoff is not eroding the ditches. Some areas still require straw to protect and encourage grass growth.

The topsoil pile located next to 45th Avenue appears to be the major remaining concern. Even covered in plastic tarps stormwater contact is occurring with the soil. Some small amounts of heavy sediments and larger amounts of colloidal runoff occur during heavy rainfall events. This concern should be resolved by December 23, as the soil pile is supposed to be removed by that time.

Investigation of the unnamed seasonal stream (tributary of Fanno Creek) that starts just southwest of the intersection of 45th and Vermont has found no evidence of heavy sediment accumulation in the September/December time period.



The stormwater retention pond outlet is closed and the water is being pumped to the sanitary sewer. This is expected to continue for a while, at least until most of the outside construction activities are still going on. This pond is intended to settle out the heavy solids only. The pond will have little effect on any colloids in the stormwater.

The dog run area should have straw maintained in some areas until the grass takes hold. Consideration should be given to fencing a second dog run area and switching the usage from one to the other as they become torn up to allow the grass to regrow. The present area should be closed for use until around May to allow new grass to take root. This area is not covered by the existing stormwater discharge permit and is not a part of the construction activities.

Items that have been of concern are:

1. **Dirty silty discharges from the site;**

2. **Street drains are only partially biobagged;**

3. **Soil stockpile runoff;**

4. **No silt fence along 45th Avenue;**

5. **Lack of oil/water interceptors for the parking lot catch basin drains and roof drains;**

6. **Lack of a temporary interceptor dike or swale along the east side of the building; and**

7. **Some drains discharge to storm drain directly, to the creek, or too far towards the end of the retention pond.**

DEQ's response to these concerns are:

1. **Most of the sediment that could enter into the stormwater runoff is controlled. Any dirty, silty discharges from the site would be mainly colloid discharges. Once stormwater contacts the clay soil in this region heavy sediments and light colloids are runoff from sites. The heavy sediments can be retained and removed through biobags, straw bales silt fences, settling ponds, and other standard management practices. Because they are small and do not settle well, colloid type solids are almost impossible to remove. Colloids are the greatest concern if they are continuos. The most effective control is prevention rather than the use of chemicals to treat colloids in stormwater**

2. **At this stage of the project biobags would probably have very little effect on the stormwater discharge. The site should use them, but they value will have limited effect on the colloidal discharges.**

3. **The soil pile has been kept on site in order that top soil would not have to be purchased and brought back on the site should the pile be removed too far in advance of the landscape and grading completion. The contractor on site has determined that the project is far enough advance that most of the soil stockpile can and will be removed with in two weeks. The remaining stockpile will be covered in plastic tarps and loose straw will be laid down to minimize the impact of any rain.**

4. **As far as required silt fencing along 45th Avenue is concerned, they are no longer required. The grass has sufficiently taken hold to allow complete removal of the fencing. Some areas are not in full growth and they are being covered with loose straw.**

5. **The lack of oil/water interceptors is not a regulator requirement for parking lots. In fact, parking lots are generally exempt from stormwater regulation.**

6. **There is a permanent swale along the east side of the building. This swale has the sides covered in black plastic tarps so that erosion of the side will not occur. We understand that some vegetative shrubs and other landscaping will occur next spring as the tarps are removed.**

7. **Some of the other drains and catch basins draining directly to the stormwater drain, the tail end of the retention pond, or directly to the creek are all allowed discharges. These drains typically do not transport suspended solids from erosion. They drain fairly clean stormwater. Dumping of mop water or other so called process or cleaning waters are not allowed but should be addressed in training of employees in proper procedures and not in structural retention or treatment measures.**

In conclusion, the greatest concern remaining on this site is the presence of the soil retention pile. The site's erosion controls are performing well but not perfectly. In consideration of the remaining work to be accomplished and the need for DEQ attention at other sites, DEQ views the time involved in further attention to this site can better be used investigating and addressing sites that have greater concerns for pollution. No further investigations of this site are planned unless the situation at this site deteriorates and the contractors fail to continue their erosion control efforts.

DEQ has only one stormwater program person for the six northwest counties. There is a backlog of approximately twelve complaint calls or sites that need attention. There are over 30 Mining, 100 Construction, and 250 Industrial Stormwater permits in affect for this region at this time. It is unknown how many additional sites that are out there that should have permits that don't. Periodic inspections of these sites by DEQ should be made but, due to limited resources, permitted sites very seldom are inspected unless a complaint occurs.

Dennis Jurries, PE
Environmental Engineer/Stormwater
DEQ – NWR WQ